

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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JUN 08 2010

PUBLIC SERVICE
COMMISSION

In the Matter of:)
The Application for Approval of Renewable)
Energy Purchase Agreement for Wind Energy)
Resources Between Kentucky Power Company)
and FPL Illinois Wind, LLC.)

Case No. 2009-00545

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POST-HEARING BRIEF OF KENTUCKY POWER COMPANY

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POST-HEARING BRIEF OF KENTUCKY POWER COMPANY

I. Introduction:

On December 29, 2009, Kentucky Power Company (“Kentucky Power”) filed a Verified Application seeking approval of the assumption of a renewable energy purchase agreement (“Lee-Dekalb REPA”) under KRS 278.300. The purchase agreement serves to provide Kentucky Power with a 100 MW share of the FPL Energy Illinois Wind LLC’s facility electrical output and environmental benefits for a 20 year period.

The Kentucky Industrial Utility Customers Inc. (“KIUC”) and the Attorney General, Commonwealth of Kentucky, each intervened in this proceeding. The same parties are also two of a number of intervenors involved in Kentucky Public Service Commission (“KPSC” or “Commission”) case number 2009-00459¹, Kentucky Power's pending rate case. As a result of the Unanimous Settlement Agreement in that case the parties agreed to determine the prudence of entering into the Lee-Dekalb REPA in this proceeding and reflect that result in rates as necessary through the rates approved by the Commission in that companion rate case docket.

¹ In the Matter of the Application of Kentucky Power Company for a General Adjustment of Electric Rates, Case No. 2009-00459.

As discussed throughout this post-hearing brief, Kentucky Power is seeking to enter into this contract as a prudent move to diversify its fuel source mixture, in anticipation of federal and/or Commonwealth mandates for renewable resources, as part of a corporate goal recognizing the environmental considerations facing the electric industry, and for all of the inherent benefits that are associated with this particular contract. The intervenors are likely to attempt to cast doubt on the present need for such a renewable fuel source. They may seek to raise doubt on the price of the wind source, the comparisons done by Kentucky Power, and even the need to move forward without final mandates in place. The Commission should give no weight to these arguments that suffer from a tunnel vision by failing to recognize the realities facing the industry.

The Commission requires electric utilities to plan ahead and make prudent fact-based decisions to protect customers and utilities alike. The renewable energy purchase agreement before the Commission in this proceeding is a representation of Kentucky Power's understanding of the Commission's direction and the Company's prudent planning for the future. Kentucky Power presented evidence of its long-term forecasting and the impending necessity to begin the process of acquiring renewable energy sources before it is too late to take advantage of favorable market conditions. Kentucky Power also provided the Commission with evidence establishing the specific benefits associated with the deal acquired in relation to the Lee-Dekalb REPA. Now is the time to act.

Accordingly, Kentucky Power respectfully requests that the Commission approve its request to assume this renewable energy purchase agreement under KRS 278.300 and allow Commission ordered prudent planning, based on a broad knowledge of the industry, to prevail over fear and doubt.

II. Legal Standard:

Kentucky Power's request for approval of the Lee-Dekalb REPA was filed under KRS 278.300, which governs approval of these types of agreements. Under KRS 278.300(3), the Commission is not to approve the assumption of a renewable energy purchase agreement without first finding that such assumption: 1) Is for some lawful object within the corporate purposes of the utility; 2) Is necessary or appropriate for or consistent with the proper performance by the utility of its service to the public; 3) Will not impair its ability to perform that public service; and 4) Is reasonably necessary and appropriate for such public purpose. As shown below, the record adequately provides the Commission the necessary foundation to issue a favorable finding on each and every one of the statutory requirement for approval.

III. Law and Argument:²

A. Assumption of the Lee-Dekalb REPA provides a diversification of Kentucky Power's fuel source mix in accordance with its lawful duty and purpose to provide electric service at the lowest cost possible taking into account other appropriate factors, based on prudent utility planning. (Prong 1 of KRS 278.300)

1. Lawful Object

A core responsibility of Kentucky Power is for it to provide retail electric service to its customers. Retail electric service is defined in KRS 278.010 (7) as meaning electric service furnished to a consumer for ultimate consumption" Under KRS 278.018, the legislature created a system establishing certified territories of electric service in the Commonwealth. Specifically, the statute reads ". . .each retail electric supplier shall have the exclusive right to furnish retail electric service to all electric-consuming facilities located within its certified

² For the convenience of the Commission and the parties, a transcript of the May 25, 2010 hearing prepared from the video recording by Maria DiPaolo Jones, Registered Court Reporter is attached as Exhibit 1 to this Brief. A copy of the confidential portion of the Commission's proceeding is being provided with a motion to maintain the confidentiality.

territory” Inherent in this right to serve is the lawful object of acquiring electric generation to provide retail electric service. There can be no question that it is a lawful pursuit to seek electric power sources for customers.

The lawfulness of entering specifically into a renewable energy power agreement is directly established by the regulatory requirements of 807 KAR 5:058. This administrative regulation requires utilities to file an Integrated Resource Plan (“IRP”) with the Commission every three years. That plan is required to include an analysis of the projected energy acquisitions by the filing utility. Specifically, Section 8 requires the filing utility to balance key uncertainties and to develop a plan to secure the lowest possible cost resources *after taking other factors into account*. As discussed below this regulation does not impose an all or nothing “lowest cost” power standard (judged through a narrow tunnel vision), but instead addresses a lowest possible cost *after taking other factors into account*. Importantly, one of the factors enumerated by the Commission in Section 8(2)(d) of the regulation is the “assessment of nonutility generation, including generating capacity provided by cogeneration, *technologies relying on renewable resources*, and other nonutility sources.” (Emphasis added). Accordingly, under the regulation, not only is the consideration of a contract for a renewable resource a “lawful object,” it is a factor required to be considered by the Commission.

Approval of the Lee-Dekalb REPA will also ensure that Kentucky Power and its customers get the benefit of being an early mover and securing wind as a renewable source of electricity while the federal tax subsidies are still in effect. (Godfrey Testimony at 13; Godfrey Cross at 105; 112.) The federal production tax credits are important because they serve to buy-down the price to pay for entering into a wind renewable purchase agreement for ratepayers. As Company Witness Weaver stated on cross-examination, federal production tax credits are set to

expire at the end of 2012, and the cost associated with that eliminated subsidy would significantly increase costs to be borne by the ratepayer. (Weaver Cross at 61.) Mr. Weaver explained that becoming an early mover is extremely important because, among other advantages, it enables Kentucky Power the ability to capture those federal tax benefits that flow through the terms of the deal. (Id.)

2. Corporate Purpose

The acquisition of renewable resources and the effort to take advantage of opportunities to diversify its fuel mix are also squarely at the root of the corporate purpose of Kentucky Power, both independently and as a member of American Electric Power (“AEP”). Specifically, as to Kentucky Power, approval of the Lee-Dekalb REPA has the benefit of positioning Kentucky Power to meet growing environmental considerations and pending government portfolio mandates for renewable energy, takes advantage of federal tax benefits, and provides the Company access to renewable energy certificates to benefit customers. This corporate positioning promotes the Company’s responsibility to provide retail electric service in a manner which clearly benefits customers as well – objectives that are within the corporate purpose of the utility.

AEP as a corporation is also keenly aware of the changing environmental issues facing the utility industry. That awareness led to corporate endeavors that recognize the upcoming comprehensive federal legislation concerning greenhouse gas emissions. (Weaver Testimony at 7-8.) As testified by Company Witness Weaver, AEP is committed to adding 2000 MW of incremental renewable energy capacity within its eleven-state system by the end of 2011 as a first-step in preparation for these upcoming environmental regulations. Approval of this contract

by the Commission will allow Kentucky Power to participate in meeting the corporate goal reflected in the Corporate Sustainability Report published by AEP.³

Legislation being discussed at the federal level and the debates in the 2010 Kentucky legislature show that renewable energy standards are on the horizon, and have been established in over 29 states. (Weaver Rebuttal at Exhibit SCW-3R.) Witness Weaver provided extensive analysis concerning the likelihood of mandated renewable standards in the Commonwealth and at the federal level in his rebuttal testimony at pages 7 -12. That analysis compares legislation in other states to what is being considered in Kentucky and discusses the benefits to Kentucky Power in entering into the contract before a mandate is dictated. Further, Company Witness Godfrey testified that federal standards are likely to be required: “[t]he whole economy is moving that way. The power industry is moving that way.” (Id.)

3. Conclusion

The Lee-Dekalb REPA is consistent with and satisfies the Commission’s own regulations requiring incorporation of this type of energy source in a utility’s planning practices. As such, Kentucky Power requests a Commission finding that the assumption of the renewable energy purchase agreement is a “lawful object within the corporate purpose” of Kentucky Power as required by the first prong of the test under KRS 278.300.

³ Available at http://www.aep.com/citizenship/crreport/docs/CS_Report_2009_web.pdf (See Weaver Rebuttal at 11 footnote 4.)

B. Assumption of the renewable energy purchase agreement provides Kentucky Power customers with a low-cost renewable source of power with a number of benefits necessary, appropriate, and consistent with the proper performance of an electric utility for its service to the public in a changing environment. (Prong 2 of KRS 278.300)

The second prong in the four-part test which Kentucky Power must meet to gain approval for this renewable energy purchase agreement under KRS 278.300 is the necessity, appropriateness for, or consistency of this contract with the proper performance of Kentucky Power. As set forth above, the Commission has already provided its affirmation on the need for energy resource diversification and Kentucky Power provided testimony supporting the Commission's position at both the state and federal level. Yet there are also characteristics unique to this agreement that support its necessity, appropriateness and its consistency with the proper performance of the utility.

First, in the matter of *Consideration of the Federal Energy Policy Act of 2005 Regarding Fuel Sources and Fossil Fuel Generation Efficiency*, KPSC Case No. 2007-00300 (Order August 25, 2009 at 11-12) (hereinafter "*Fuel Source Order*"), the Commission stated that it "believes the realities facing today's electric industry requires that greater fuel source diversity be considered." The Commission further recognized that the changing nature of the environmental debate in Congress and the position set forth in the Governor's Energy Plan "dictate that Kentucky's generators develop plans to further diversify their generation mix and eliminate dependence on one source of fuel." (Id.)

Ultimately the Commission determined that it did not need to mandate a single restrictive standard concerning fuel source diversity. (Id.) But the Commission did order Kentucky utilities to place a greater emphasis on alternatives to traditional fuel sources. Specifically, the Commission stated:

In connection with its decision not to mandate adoption of a fuel source standard, the Commission directs the jurisdictional generators to place greater emphasis on research into cost-effective alternatives to generation based on coal, natural gas, and fuel oil. Also, in accordance with 807 KAR 5058, Section 8(2)(b) and (d), the Commission directs the generators to include a full, detailed discussion of such efforts in IRPs filed subsequent to the date of this Order.

(Id. at 13.) As a result of the *Fuel Source Order*, the Commission sent a clear message to the industry that alternative fuel sources need to be incorporated into a utility's planning.

Beyond the Commission's guidance on the prudence of entering into this type of contract, the evidence in the record establishes that the Lee-Dekalb REPA will supply Kentucky retail customers with energy at an affordable cost; the cost reflects the lowest bidder in the request-for-proposal; the cost is lower than the cost of adding new generation, the actual facility is located in a prime area for wind generation and utilizes the latest technology, benefits from the avoided costs of other energy; benefits related to Kentucky's capacity position; and the contract price is an all-in cost for a bundled product that includes energy, capacity and renewable energy certificates.

According to the testimony of Company Witness Weaver over a ten-year average "a typical residential customer utilizing 1,000 kWh per month would pay approximately 70 cents more on his/her monthly electric bill in exchange for this diverse carbon-free energy resource." (Weaver Testimony at 21; Exhibit SCW-3.) That provides all of the advantages of the contract detailed throughout this brief while charging customers less than the cost of soft drink per month from most vending machines.

The cost impact on customers is relatively low due to the nature of the successful bids received by the AEP RFP process. As detailed in the testimony of Company Witness Godfrey

twenty-two bids were received from renewable energy developers for projects interconnected into PJM. (Godfrey Direct at 18.) Confidential Exhibit JFG-3 shows the actual bids represented in an around-the-clock basis for a bundled product (Energy + Capacity + RECs) on a \$/MWh basis, adjusted for time-of-day pricing and expected production. (Id. at 18-19.) As described by Mr. Weaver, “. . . the offer that served as the basis for the LDWEC [Lee-Dekalb Wind Energy Center] REPA, when compared to other renewable offers received from the same solicitation . . . was indeed the least-cost renewable alternative offered.” (Weaver Rebuttal at 4.)

An issue raised by KIUC Witness Kollen is that the Company had other options to meet renewable standards, including biomass co-firing at the Big Sandy station and the purchase of renewable energy certificates. However, Company Witness Weaver pointed out that the biomass plans for Big Sandy are still years away in the long-term plan and not yet operational. (Weaver Rebuttal at 5.) Likewise, as discussed below, Mr. Weaver explained the need to secure renewable energy certificates before the rush to secure those certificates is inflated due to upcoming mandates. Witness Godfrey testified that the price of renewable energy certificates in Ohio, where AEP has regulated affiliates that, “. . . we’ve had to pay significantly more than that [price of REC in Column M of SCW-3] and that’s this year in 2010” (Godfrey Cross at 117) Similarly there was discussion in discovery of a biomass facility set to be operational in Kentucky. [Kentucky Power Confidential Supplemental Response to AG 2-3(c).] Comparison of that confidential indicative price shows that said proposed biomass facility was considerably higher than the Lee-Dekalb REPA price. The approval of the present contract will allow Kentucky Power to begin securing renewable energy certificates for future compliance now and avoid any potential increase in market prices.

Another indication of the value of this particular contract is the comparison of the electricity compared to natural gas combined cycle and combustion turbines that shows the Lee-Dekalb REPA to be more affordable. “Exhibit SCW-1R compares and contrasts the levelized (life cycle) cost of electricity (“COE”) of the LDWEC REPA versus a range of levelized COE for both natural gas combined cycle (“NGCC”) and natural gas combustion turbine (“NGCT”) resource options, each represented on a “\$/per Mwh” (generated) basis.” (Weaver Rebuttal at 4.) The testimony concludes that the levelized life cycle cost of the LDWEC REPA would be the least-cost option. (Id.)

On cross-examination counsel for KIUC attempted to question the cost assumptions used by Company Witness Weaver in his analysis. KIUC’s attempts were unsuccessful because they relied on spot market price data versus a forward ten or twenty-year price curve. Company Witness Weaver could not support the KIUC’s representation of market pricing but did explain the analysis behind the numbers relied upon by Kentucky Power. He testified that the KIUC was relying on a snapshot of prices at one point in time and that the pricing “. . . is representative of a futures market and they could be extremely volatile depending on world events, events domestically, but they do not represent a fundamental forecast based on typical supply and demand dictates.” (Weaver Redirect at 82.)

Considering the value of natural gas pricing utilized in Exhibit SCW-1R, Witness Weaver indicated that he had considered in that same exhibit a \$1 per MMBtu reduction associated with potential price of natural gas versus the “base” projection (that was also set forth as part of Kentucky’s 2009 IRP.) Moreover, under cross examination he explained that even if one were to “. . . overlay a \$1 reduction, a \$2 reduction, a \$3 reduction, and I think if you were

to do that it would still represent the DeKalb PPA was far and away lower than the life cycle cost of the combined cycle alternative.” (Weaver Cross at 54-55.)

Another benefit unique to the Lee-Dekalb REPA is the location of the facility generating the electricity and the technological benefits associated with that facility that provides a strong capacity factor. Company Witness Godfrey testified that the facility which is located in northern Illinois, a region that “. . . is generally acknowledged as having the best wind resources within the (13) states plus the District of Columbia which comprises the PJM grid . . . ” and contains the technology to outperform previously built wind turbines. (Godfrey Direct at 9.) KIUC attempted on cross-examination to attack the validity of the expected capacity factor associated with the Lee-Dekalb REPA relied upon by Kentucky Power. The Company anticipates that KIUC will seek to raise this issue by arguing that the initial months of operation of the Lee-Dekalb facility is indicative of future performance and that other facilities in the area failed to produce the 39.3% capacity factor relied upon by Kentucky Power. The basis of KIUC’s faulty assumption was exposed by Company Witness Godfrey during redirect at the hearing. Specifically, Mr. Godfrey and Mr. Weaver both testified that the first few months of a facility’s operation cannot be used to predict the future capacity performance of a wind generator. (Godfrey Redirect at 119; Weaver Redirect at 81.) Mr. Godfrey explained that there had been start-up tests and other issues involved with the debut of the facility. (Godfrey Redirect at 118.) Witness Godfrey explained that one of those delays was a forced outage in the early months due to the need to make repairs to the tiling in the property owner’s fields. He explained that the underground tiling is used to drain the fields during times of heavy rain and were damaged during construction of the facility. (Id.) Another issue is that this facility was subject to some PJM forced interruptions during the first few months of operation, due to some transmission

upgrades in the area expected to be completed this summer. (Id.) In short, the initial performance of the wind facility is not, and will not be, representative of its future operations.

KIUC may also attempt to compare the capacity factor of the Lee-Dekalb REPA to the performance of the Camp Grove facility due to its proximity. As part of a discovery response, Kentucky Power provided KIUC with the confidential performance data of other wind providers. (As reflected on KIUC Confidential Cross-Examination Exhibit 2.) Yet, Witness Godfrey pointed out that the facility in the Lee-Dekalb REPA uses a larger blade and therefore will produce more power at a given speed than the turbines at Camp Grove. (Godfrey Cross at 101.) Witness Godfrey further testified that the larger size of the blade at the facility in this proceeding allows one to multiply Camp Grove's historical capacity factor by 114% to provide a likely capacity factor for the Lee-Dekalb facility in this proceeding in excess of the 39.3% assumed for ratemaking purposes (Godfrey Redirect at 121-122).

Mr. Godfrey testified that he is confident in the 39.3% capacity factor estimate as a reasonable projection for Kentucky Power to use for rate making purposes. (Godfrey Redirect at 118; 124.) Mr. Godfrey explained that the forecasted annual production number was the middle of a bell shaped distribution curve that sometimes could be higher and sometimes could be lower but that it was the appropriate number to use. (Godfrey Redirect at 124). He further stated that the annual production estimate, which is derived from 7 years of on-site data, is the likeliest place to base the capacity factor to account for fluctuations due to the presently available recovery options as part of base rates rather than including the costs in the fuel clause. (Godfrey Redirect at 122.) Mr. Godfrey also pointed out that if the facility performs better than a 39.3% capacity factor that the Company does not get reimbursed by Kentucky ratepayers.

There is an impact on the fuel clause that bears pointing out as another benefit or point to keep in consideration, because the contract has the potential to replace costs typically passed through the fuel clause. The “free” energy associated with this wind contract is a designated resource for the direct benefit of Kentucky Power customers. Therefore, the contract will allow the Company to either avoid other energy costs that are not free, or advantage itself by selling more (AEP Pool-related) “primary energy” to affiliate member companies; costs (and credits) that are currently passed through the fuel clause.⁴ (Weaver Cross at 52.) The Commission should not consider the full amount of the contract as an addition above current costs absent approval of the contract. There are avoided costs, to the extent that power or increased costs would have been acquired in a fuel proceeding.

Another advantage to approval of the Lee-Dekalb REPA at issue in this proceeding is the favorable impact on Kentucky Power’s capacity deficit position in the AEP pool. Assumption of this contract will allow Kentucky Power the ability to save money by paying less in capacity payments to the AEP pool for capacity. KIUC argues that Kentucky Power is “energy long” and does not need to add more energy. This is a red herring, because Kentucky Power’s “capacity” position is related to its peak demand and insufficient generation facilities. Indeed, the request to approve the Lee-Dekalb REPA is not sought because Kentucky Power is energy short. Kentucky Power seeks assumption of this contract for all the reasons set forth in this brief, including but not limited to, federal/state requirements, Commission guidance, corporate planning, its capacity deficit, and environmental benefits. Company Witness Weaver testified that the label of being “energy long” is reliant upon the performance of Kentucky Power’s very limited number of owned generation facilities year to year, or even today. (Weaver Cross at 48; 51). The current

⁴ See such avoided costs, as identified on a forward-looking basis in Exhibit SCW-3, column “E”.

energy position of Kentucky Power is immaterial to the issues in this case and therefore, it should not be used as a reason to deny approval of this 20 year contract.

Another benefit that may not be obvious at first is that the Lee-Dekalb REPA price represents the all-in-cost of the electricity. That means that this contract includes the cost of electricity, capacity, receipt of the renewable energy certificate value, and payment for all transmission costs. KIUC Witness Kollen incorrectly asserted in testimony that there are transmission costs not reflected in the cost supplied the Commission that should be considered.⁵ (Kollen Direct at 7-8.) However, Company Witness Godfrey clarified that the bidder was responsible for feasibility or impact studies and upgrades required by the transmission system to accommodate the facility's output. (Godfrey Direct at 15.) Company Witness Weaver also assured the Commission that the Company will incur no incremental transmission costs associated with the energy received through the Lee-Dekalb REPA. (Weaver Rebuttal at 6.)

Approval of the Lee-Dekalb REPA also ensures that Kentucky Power receives all current and future attributes from the wind provider in the form of renewable energy certificates. A renewable energy certificate is legal proof that the electricity has been generated by a renewable-fueled or environmentally friendly source. (Godfrey Direct at 21.) The term of the contract is 20 years, meaning Kentucky Power and its customers will receive one renewable energy certificate for every megawatt hour of electricity generated and provided to Kentucky Power under the terms of the Lee-Dekalb REPA.

⁵ KIUC witness Kollen also asserts there are PJM congestion costs and line losses, however Company Witness Weaver provides rebuttal testimony pointing out that this is a non-factor due to the Company's position that, in its modeling, it applies a projected energy price that emulates a PJM Locational Marginal Pricing (LMP); a value that implicitly incorporates cost of (generated) energy, as well as congestion costs and line losses. (Weaver Rebuttal at 7.)

The record in this case supports the necessity and appropriateness for and consistency with the proper performance by Kentucky Power of its service obligations to the public. Accordingly, Kentucky Power has met the requirements of the second prong of the test under KRS 278.300.

C. Assumption of the Lee-Dekalb REPA allows Kentucky Power to be an early mover in the acquisition of renewable energy without impairing its ability to provide retail electric service to customers. (Prong 3 of KRS 278.300)

The third prong of the four-part test for approval of the Lee-Dekalb REPA under KRS 278.300 seeks to ensure that assumption of the contract will not impair Kentucky Power's ability to perform its public service obligation to provide electric service. The record in this case establishes the proper grounds for the Commission to make this finding.

All of the benefits discussed under the first two prongs demonstrate that the assumption of the Lee-Dekalb REPA will not impair Kentucky Power's performance obligations – to the contrary, Kentucky Power's ability to perform its obligation will be enhanced. The Commission's position in the *Fuel Source Order*, and the testimony and exhibits of Company witnesses establish that Kentucky Power has the obligation to pursue appropriate renewable contracts in its efforts to provide electric service. Company Witnesses Weaver and Godfrey explained the benefits of being an "early mover" in this market and taking advantage of the current 2.1 cent per kWh federal tax subsidy available to wind developers in the industry, and, as Company Witness Weaver phrased it, to act while the government is providing a carrot instead of a stick as the motivation. (Weaver Cross at 62; Godfrey Cross at 113). Not moving at this time to secure incentivized renewable wind agreements could later increase Kentucky Power's cost of providing electric service if it is forced to seek higher priced renewable sources of generation after standards are enacted and the tax subsidies expire. At that time, Kentucky

Power will be in competition with every other Kentucky utility and if the mandates are national with every electric utility in the nation. Waiting will cause Kentucky Power's obligation to its customers to be impaired – acting now will serve to avoid this risk.

Kentucky Power anticipates that KIUC may assert one of its arguments related to the imputation of debt by certified rating agencies in an effort to show that approval of the contract would impair Kentucky Power's ability to provide electric service. KIUC's assertion, if made, will be incorrect. KIUC Witness Kollen incorrectly asserts that Kentucky Power failed to consider the effect on its costs and the associated revenue requirement due to a richer common equity ratio required to offset the rating agencies' imputation of debt equivalents for purchased power contracts. (Kollen Direct at 10-12.) The rebuttal testimony of Company witness Marc Reitter showed the errors in Witness Kollen's analysis.

Witness Reitter testified that only one of the three certified credit rating agencies currently imputes debt related to wind farm purchased power agreements. Moreover, given that agency's methodology on ratings is based on the holding company level, it is not necessary for Kentucky Power to offset that imputation with additional equity. (Id. at 1-2.)⁶ Accordingly, Witness Reitter testified that the Company should not be required to ask for additional revenue related to an imputation of debt for the Lee-Dekalb REPA nor does it intend to do so. (Reitter Rebuttal at 1.) Witness Reitter thus established that Witness Kollen's argument was mistaken and that no debt imputation will occur. Thus, Kentucky Power's ability to provide electric service will not be impaired.

⁶ KIUC Witness Kollen admits in the Response of KIUC to Kentucky Power's First Set of Data Requests that he is unaware of how Moody's and Fitch calculate the debt equivalency for the contract at issue in this proceeding. KIUC Response to Kentucky Power Data Request 1-10.

D. The Lee-Dekalb REPA is a reasonable and appropriate means for Kentucky Power to satisfy its public service obligations. (Prong 4 of KRS 278.300)

The analysis of each of the first three prongs establishes that the fourth prong – “reasonable and appropriate” -- has been met as well. This fourth prong requires an overall assessment of the details presented above. Such an assessment clearly requires approval of the Lee-Dekalb REPA.

Kentucky Power has inadequate generation facilities to meet its internal needs. If Kentucky Power were a stand-alone company, it would have required an enormous amount of additional capacity, at significant cost, long before now. This “shortfall” has been met by capacity from the AEP pool, under a FERC-approved agreement. Under the Pool Agreement, Kentucky Power has two obligations: (1) To provide adequate capacity, over time, to meet its internal demand; and (2) To support the capacity efforts and initiatives of AEP. The Lee-Dekalb REPA will allow Kentucky Power to satisfy, in part, both of these obligations.

These obligations are not disputed by the intervenors, as they recognize that Kentucky Power has received enormous benefits over the years from its AEP Pool membership. The real basis for each and every objection being made by the intervenors is that the Lee-Dekalb REPA will result in a net increase in retail electric rates – albeit it relatively minor. Kentucky Power recognizes that the Commission should balance this “cost” consideration with the benefits; and indeed is required to by the fourth prong of the statutory test. Kentucky Power respectfully states that any “reasonable and appropriate” balancing of these factors will unquestionably support approval of the renewable contract.

Kentucky Power’s owned generation resources are all coal-fired units. In light of the increasing resistance to fossil-based fuels, Kentucky Power (and AEP) has a legal and corporate obligation to move toward a more balanced generation fuel mix. It necessarily falls upon this

Commission to confirm that such a fuel mix is appropriate. Once that decision is made, and if it is in favor of renewable energy resources, the Lee-Dekalb REPA cannot seriously be challenged. It is low cost, it captures renewable energy certificates, it reflects the latest technology, and it reduces the cost of fossil fuels (thus lower charges to ratepayers) via the fuel adjustment clause. Because of these unquestionable benefits of the Lee-Dekalb REPA, the fourth prong of the test, as applied in this case has been satisfied.

E. Assumption of the Lee-Dekalb REPA satisfies the test in KRS 278.300.

The record in this case establishes that the Lee-Dekalb REPA satisfies the requirements under KRS 278.300 in order to be approved. Kentucky Power is not representing that all renewable contracts should be approved without investigation by the Commission. However, this particular contract is supported by substantial evidence showing it to be the most affordable option of all the bids received and more affordable than the proposed biomass provider in Kentucky.

IV. Other positions asserted by KIUC in this proceeding should be rejected:

A. Kentucky’s generators are required to provide a least-cost resource mix while balancing cost-effectiveness with reliability and environmental concerns. *Fuel Source Order* at 17; 807 KAR 5:058.

The Commission requested that the parties brief Witness Kollen’s assertion that Kentucky has a mandatory “least-cost standard” for supply-side resources. This is not the legal standard in Kentucky. First, the appropriate legal standard for assumption of this type of contract is laid out clearly in KRS 278.300 (see Legal Standard above). This standard properly requires cost to be considered, but it requires “other factors” be considered as well. If “least-cost” were the sole requirement, the remaining language of the statute would be superfluous.

Mr. Kollen responded to the Commission Staff's first set of discovery (Staff 1-3) with a list of Commission cases that used the words "least cost" or "least costly alternative," but he could not provide a citation to any authority requiring an absolute least cost standard as he infers in his testimony. A review of other Commission authority shows that there is no such rigid standard.

As highlighted above, the Commission requires utilities in Kentucky to consider renewable options like the one at issue in this proceeding under the integrated resource plans outlined in 807 KAR 5:058. Section 8 of that rule requires the filing utility to balance key uncertainties and develop a plan seeking the lowest possible cost after taking other factors into account. This is not an all or nothing "lowest cost" power standard judged through a narrow tunnel vision, but a lowest *possible* cost taking other factors into account. The rule requires utilities to take into account the "assessment of nonutility generation, including generating capacity provided by cogeneration, *technologies relying on renewable resources*, and other nonutility sources." (Emphasis added). KIUC witness Kollen's response to Staff's discovery request concerning his support for the "least-cost standard" fails to discuss the other factors enumerated by the Commission as a necessary part of the analysis.

The Commission further contradicted KIUC's narrow "least cost" interpretation pointing out the importance of a diversified resource mix that balances cost against reliability and environmental concerns in the *Fuel Source Order*. Specifically the Commission stated:

While the General Assembly encourages the use of Kentucky coal, the evolving environmental concerns cited above, as well as in the Governor's Energy Plan, dictate that Kentucky's generators develop plans to further diversify their generation mix and eliminate dependence on one source of fuel. As set forth in the IRP regulation, *Kentucky's generators are required to provide a least-cost resource mix while balancing cost-effectiveness with reliability and environmental concerns*. The Commission believes

the realities facing today's electric industry requires that greater fuel source diversity be considered.

Emphasis added. Fuel Source Order at 11-12. The Commission's approach incorporates a least-cost concept but does not blindly assign that factor as the only criteria. Instead, the Commission balances the least-cost concept with other issues facing the utility industry including a resource mix and environmental concerns. The Commission also recognizes the likelihood of state and/or federal mandates and does not ask utilities to ignore that risk.

The Indiana Utility Regulatory Commission ("IURC") approved a wind renewable contract earlier this year where facing a similar "lowest cost" argument raised by an intervenor when considering the approval of a renewable purchased power agreement for Indiana Michigan Power Company. (*IURC Wind Approval* at 10-11.)⁷ The IURC determined that even though applicable the statute included a least cost provision, the intervenor had overlooked the "reasonableness standard" incorporated in the statute. (*Id.*) The IURC declared that, "[t]he reasonableness standard and Commission practice recognize that the absolute lowest cost is not required." (*Id.*) The IURC went on to discuss the logic behind diversifying stating,

. . . over the longer term, the diversified purchasing approach enables the utility to serve retail customers at the lowest fuel cost reasonably possible. In other words, it is reasonable to procure fuel through a diversified purchasing strategy, just as it is reasonable to generate or purchase electricity through a reasonable integrated resource plan.

(*Id.*) The IURC took several factors into account, including the pending federal regulations, the advantage of being an "early mover," and the need for diversification of fuel sources. It also

⁷ *Verified Petition of Indiana Michigan Power Company, an Indiana Corporation, for Approval Pursuant to Ind. Code 8—1-2-42(a), 8-1-8.8-11 and to the Extent Necessary 8-1-2.5-6 of a Renewable Energy Power Purchase Agreement with Fowler Ridge II Wind Farm, LLC, Including Timely Cost Recovery, Cause Number 43750 (Approved January 6, 2010) (IURC Wind Approval)*. A copy of this Order was provided to Commission Staff at the hearing after discussing the matter with Commissioners and is attached for further consideration. (Transcript at 125.)

bears pointing out that the IURC approved this and other wind agreements even though Indiana does not yet have renewable mandates. The IURC's decision declaring the contract to be reasonable is in line with the Commission's rationale in the *Fuel Source Order* and supports approval of the agreement in this case (and denial of KIUC's argument that a singular focus on "least-cost" is the appropriate standard).⁸

B. Lee-Dekalb's Net Present Value rate is a "winner."

KIUC introduced KIUC Confidential Cross Examination Exhibit 6 attempting to represent the net present value of the net contract costs as well as the price for renewable energy certificates included on Exhibit SCW-3. There were a few problems with KIUC's exhibit. The exhibit, as pointed out by Company Witness Weaver under cross-examination, relies on a (cumulative) present value analysis that *only* reflects the first 10 years of that 20-year deal (Weaver Cross at 70.) In the description of the exhibit KIUC counsel points out the nominal value of the Lee-Dekalb REPA versus purchasing renewable energy certificates versus assumption of the certificates. KIUC counsel represents in a question to Witness Weaver that "...if you just add up the pluses and minuses, the wind is a winner..." (Weaver Cross at 70.) KIUC counsel then goes on to implicitly apply present value (discount) factors to the annual net costs of the contract (col. L of Exhibit SCW-3) --as well as to the annual *avoided* costs of future renewable energy certificates if the contract were not to occur (col. M of Exhibit SCW-3)-- to erroneously suggest that the wind contract is not economic when each years' costs/avoided costs are discounted to current (2010) dollars and summed. However, if KIUC's analysis would have

⁸ If a standard outside the test outlined in KRS 287.300 is considered, that standard should be that Kentucky is a lowest reasonable cost resource mix, balancing cost effectiveness with reliability and environmental concerns. The request of Kentucky Power fits squarely within that standard. The diversification of resources is important, the recognition of environmental concerns is important, and those interests are bolstered by the attractiveness of this particular contract.

been applied to the full, 20-year term of the Lee-Dekalb REPA it would show that the costs associated with the Lee-Dekalb REPA would be significantly lower than the cost of renewable energy certificates on such a cumulative present value basis --using a reasonable, 8.67% discount factor-- and, therefore, this wind deal would be considered a clear "winner" for the customers of Kentucky Power, even under KIUC's standard.

KIUC's exhibit also relied upon an unsubstantiated assumption about customer payment methods and old credit values. Kentucky Power objected to the usage of that unsubstantiated assumptions at the hearing, an objection sustained by the Commission. Third, Company Witness Godfrey testified that recent renewable energy certificate costs have varied considerably from the prices relied upon in KIUC's analysis, at times increasing to almost double that cost. (Godfrey Cross at 117). KIUC Confidential Cross Examination Exhibit 6 fails to analyze the full length of the contract, contains old data, and relies on assumptions sustained as inappropriate by the Commission. The Chairman when admitting the KIUC cross examination exhibits stated the Commission would be able to sort out the wheat from the chaff. Kentucky Power asserts this exhibit and the corresponding argument based on it represent that chaff.

C. Off-System Sales are not a factor in this proceeding.

KIUC has raised concerns on the impact of the Lee-Dekalb contract on off-system sales. (Kollen Direct at 9-10.) Specifically, KIUC Witness Kollen attempts to condemn the fact that this transaction could create opportunities for off-system sales of other energy. (Id.) Witness Kollen insinuates that shareholders should use their share of any off-system sales profits to offset the renewable purchase. These arguments should be rejected. Company witness Thomas Myers first testified that he did not agree with KIUC witness Kollen's testimony concerning the link between the renewable agreement and off-system sales margins. (Myers Rebuttal at 2.) Witness

Myers added that while the agreement would likely have a positive impact on off-system sales margins, that amount would be uncertain. (Id.)

Witness Myers also testified that to the extent additional energy is available for off-system sales as a result of the Company entering into the Lee-Dekalb contract that such sales will increase the off-system sales margins shared with Kentucky Power's customers. Thus, they will receive benefits in addition to the other primary benefits described above. Additionally, these arguments have no impact on the Commission's legal standard to determine the reasonableness of a contract under KRS 278.300. The off-system sales sharing mechanism is not a matter in this case. That mechanism has a number of factors involved and is set up to the benefit of both customers and the Company.

The *IURC Wind Approval* case in Indiana also included an argument about shareholder responsibility. The intervenor asserted that the wind agreement in that case was merely an insurance policy against the potential costs of greenhouse gas regulations and that shareholders should bear some of the costs. (*IURC Wind Approval* at 12) The IURC found that there were many benefits from the renewable contract, and that shareholders should not be penalized for pursuing the use of renewable energy. (Id. at 12; 14.) The Commission should reject these arguments as well.

D. New renewable providers come at a cost.

KIUC or the Attorney General's Office may argue that the responses to Kentucky Power's request for proposal show that there are more than enough providers available should Kentucky Power need to add renewable resources at a later time. However, that argument ignores a couple of important facts. First, the proposed acquisition of 100 MW is likely to only satisfy a portion of what Kentucky Power will need should standards be legally mandated.

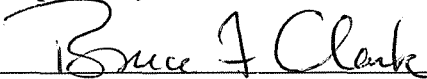
(Weaver Redirect at 80; Godfrey Cross at 111-112). Second, the renewable costs will likely be significantly different going forward. Witness Godfrey testified that there is a discounted rate to this contract due in part to the fact that the project developer had already committed its capital and construction had already begun on the project without pre-selling all of the generation output. (Godfrey Cross at 109-110). He also testified that many of the other bidders with higher bid prices would not build their project unless they had a long-term contract in place. Thus, there is more supply at any given price depending on what a buyer like Kentucky Power is willing to pay, but then that resource would come at a significantly higher cost to the company. (Id.) Likewise, the expiration of the federal tax benefits would also increase costs to ratepayers if Kentucky Power waits to begin adding renewables. At some point such resources will, in all probability, become more expensive. It takes prudent planning and action to ensure a utility and its customers do not wait too long to act. Pursuant to its experience in the market and resource planning efforts before the Commission, Kentucky Power is seeking to act now before it is too late and it misses this opportunity to acquire a portion of what is expected to be needed for itself and its customers.

V. Conclusion:

The factors necessary to approve the Lee-Dekalb REPA under KRS 278.300 have been satisfied by Kentucky Power in this proceeding. The Commission has provided guidance that Kentucky utilities should consider the diversification of fuel sources and renewable sources of power in its generation mix. A holistic understanding of this particular agreement highlights the opportunity to gain a favorable wind source of power while gaining cost benefits beyond the inherent value of securing a renewable source of energy. Kentucky Power has answered the call of the Commission and has secured a favorable contract for renewable power for the benefit of

Kentucky Power customers. Kentucky Power respectfully requests the Commission support prudent reliable planning and find that the standards outlined in KRS 278.300 have been satisfied and that the Commission approve the assumption of the renewable wind energy power agreement as requested in this proceeding.

Respectfully submitted,



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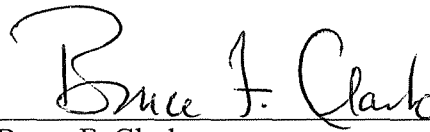
COUNSEL FOR KENTUCKY POWER
COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following by first class mail, postage prepaid and e-mail transmission on the 8th day of June, 2010:

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A handwritten signature in cursive script that reads "Bruce F. Clark". The signature is written in black ink and is positioned above a horizontal line.

Bruce F. Clark

EXHIBIT 1

(Transcripts of Proceedings)

[Confidential Portions Of Hearing Transcript
Redacted In Their Entirety.]

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COMMONWEALTH OF KENTUCKY
BEFORE THE
PUBLIC SERVICE COMMISSION OF KENTUCKY

- - -

In the Matter of :
The Application for :
Approval of Renewable :
Energy Purchase Agreement : Case No. 2009-005 45
for Wind Energy Resources :
Between Kentucky Power :
Company and FPL Illinois :
Wind, LLC. :

- - -

PROCEEDINGS

before Chairman David L. Armstrong, Vice-Chairman
James W. Gardner, and Commissioner Charles R.
Borders, at the offices of the Kentucky Public
Service Commission, 211 Sower Boulevard, Frankfort,
Kentucky, called at 3:05 p.m. on Tuesday, May 25,
2010.

- - -

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APPEARANCES:

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On behalf of Kentucky Industrial Utility
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General.

Kentucky Public Service Commission
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On behalf of the Commission staff .

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On behalf of AK Steel Corporation.

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APPEARANCES (continued):

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On behalf of NextEra Energy.

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Tuesday Afternoon Session,
May 25, 2010.

- - -

CHAIRMAN ARMSTRONG: We welcome everyone to this hearing on case number 2009-00545, Kentucky Power wind power contract. The parties in the case -- my name is Dave Armstrong, Chair of the Commission, with me is Jim Gardner, the vice-chair, and also with us is Charles Borders, the commissioner.

Appearance of counsel.

MR. CLARK: For the applicant, Kentucky Power Company, Bruce Clark, Stites & Harbison, 421 West Main, Frankfort, Kentucky. And joining me, we have filed a motion pro hac vice, Mr. Matt Satterwhite, we understand it has not been granted, we would ask the Commission to grant it at this time. Mr. Satterwhite will be conducting the direct examination.

CHAIRMAN ARMSTRONG: His request for joining us is granted. Welcome.

MR. SATTERWHITE: Thank you.

MR. COOK: Your Honor, on behalf of the Attorney General, Lawrence Cook, 1024 Capitol Center

1 Drive, Suite 200, Frankfort, 40601.

2 CHAIRMAN ARMSTRONG: Michael.

3 MR. KURTZ: Yeah, Mr. Chairman, f or KIUC,
4 Mike Kurtz and Dave Boehm, Boehm, Kurtz & Low ry, 1510
5 URS Center, Cincinnati, Ohio.

6 CHAIRMAN ARMSTRONG: Any other parties in
7 interest here?

8 Has public notice been received?

9 MR. NGUYEN: Yes, it has, your Ho nor.
10 Quang Nguyen on behalf of Commission staff.

11 CHAIRMAN ARMSTRONG: Yes, Quang. Thank
12 you very much.

13 MR. NGUYEN: I apologize, your Ho nor.
14 Public notice was not required in this instan ce; it's
15 just required in the rate case matter.

16 CHAIRMAN ARMSTRONG: Correct.

17 MS. McCANN: Your Honor, I'm Kim McCann,
18 I was here earlier for the other case, but I' m with
19 VanAntwerp, Monge, Jones, Edwards & McCann in Ashland
20 representing AK Steel Corporation.

21 CHAIRMAN ARMSTRONG: Thank you.

22 MR. GOSS: If it please the Commi ssion,
23 Mr. Chairman, my name is Mark David Goss and I'm with
24 Frost Brown Todd in Lexington, I represent Ne xtEra

1 Energy, LLC which is the a parent of FPL Illi nois
2 Wind, and at the appropriate time when the
3 Commission's going to entertain public commen t, I'd
4 like to address the Commission if I may for j ust a
5 minute.

6 CHAIRMAN ARMSTRONG: Well, your t iming is
7 right on. If you'll use the microphone there to
8 capture your comments, welcome. It's always nice to
9 have the former chairman of the PSC back at o ur
10 commission.

11 MR. GOSS: Thank you very much,
12 Mr. Chairman.

13 CHAIRMAN ARMSTRONG: Proceed.

14 MR. GOSS: Mr. Chairman, as I ind icated,
15 I represent NextEra, LLC. NextEra is the par ent of
16 FPL Illinois Wind. FPL Illinois Wind is not a party
17 to this case and certainly NextEra has not
18 intervened, but I rise on behalf of NextEra t o
19 support Kentucky Power's application in this case.

20 We very much, your Honor, appreci ate the
21 diligence and consideration that the Commissi on will
22 give to this application. We do feel, your H onor,
23 that the Commission, in fact, enjoys somewhat of a
24 historic -- has a historic opportunity here t o

1 approve a hundred megawatt block of renewable power
 2 which, to my knowledge, would be the first block of
 3 power of that size from a renewable standpoint that
 4 has ever been approved by this Commission.

5 And so we appreciate your diligence and
 6 your consideration and we would very much -- we very
 7 much look forward to hearing your Honor and thank you
 8 very much for allowing me to address you.

9 CHAIRMAN ARMSTRONG: Thank you very much.

10 MR. GOSS: Thank you.

11 CHAIRMAN ARMSTRONG: Appreciate you being
 12 here.

13 Are there any outstanding motions ?

14 MR. CLARK: None, your Honor.

15 CHAIRMAN ARMSTRONG: If you would proceed
 16 with your witnesses.

17 MR. CLARK: Mr. Satterwhite.

18 MR. SATTERWHITE: Thank you, your Honor.
 19 Thank you for the privilege of appearing before you
 20 today. The company would like to call Scott C.
 21 Weaver to the stand as its first witness.

22 (Witness sworn.)

23 CHAIRMAN ARMSTRONG: Speak up loud and
 24 clear and state your name, your address, and why

1 you're here.

2 THE WITNESS: Scott C. Weaver. My title
3 is Managing Director Resource Planning and
4 Operational Analysis. I'm employed by AEP Service
5 Corporation, One Riverside Plaza, Columbus, Ohio
6 43215.

7 MR. SATTERWHITE: Thank you,
8 Mr. Chairman.

9 - - -

10 SCOTT C. WEAVER

11 being first duly sworn, as prescribed by law, was
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 By Mr. Satterwhite:

15 Q. Mr. Weaver, did you cause testimony,
16 rebuttal testimony or (inaudible) testimony to be
17 filed in this docket?

18 A. Yes, I did.

19 Q. Do you have any corrections to either
20 pieces of testimony that you filed?

21 A. I have one correction.

22 Q. And where is that?

23 A. It's in the rebuttal testimony on page 4,
24 line 2.

1 Q. Okay.

2 A. The representation of "1-17" should be
3 "1-9."

4 MR. SATTERWHITE: Everyone get that?

5 Q. Okay. Any other corrections?

6 A. No.

7 Q. Bearing in mind that correction, if we
8 asked you all the same questions today that you
9 answered in this testimony, would your answers be the
10 same?

11 A. Yes.

12 MR. SATTERWHITE: All right. I'll tender
13 the witness for cross-examination.

14 MR. COOK: Your Honor, if I may, between
15 KIUC and the attorney general we've arranged for KIUC
16 to ask first.

17 MR. KURTZ: Thank you, Mr. Chairman.

18 - - -

19 CROSS-EXAMINATION

20 By Mr. Kurtz:

21 Q. Good afternoon, Mr. Weaver.

22 A. Good afternoon.

23 Q. Just background basics. Right now in the
24 state of Kentucky there is no renewable resource

1 mandate currently in effect in law; is that correct?

2 A. That's my understanding, that's correct.

3 Q. Do you have any doubt about that?

4 A. I have no reason to believe there is.

5 Q. Okay. And of course there's no federal
6 renewable mandate; is that correct also?

7 A. That's correct.

8 Q. Okay. There's considerable discussion in
9 your testimony about the possibility, and I guess you
10 would say probability that there will be a federal
11 renewable mandate enacted sometime in the future.

12 A. Yes.

13 Q. Okay. Do you know, sitting here today,
14 when that mandate will take effect in this
15 yet-to-be-enacted legislation?

16 A. No. Obviously, given the fact that it's
17 still being debated on the floor of Congress at a
18 national level and various other states that have not
19 already enacted, it would be impossible for me to
20 dictate, or identify rather, specifically when it
21 would be applicable.

22 Q. And then, of course, you don't know what
23 the percentage reductions would be starting in year
24 one, whenever that would be, if such a law were

1 enacted?

2 A. The basis or the gauge that I would use
3 from a resource planning standpoint, and again, I
4 think that's a very operative point here is my role
5 as a long-term resource planner, we're looking out,
6 obviously, over the future, and while it's impossible
7 to predict exactly when legislation, for instance,
8 could be passed, or regulation if you're talking
9 about environmental regulation, it's something that
10 we really have to stay on top of and look at, as an
11 example for renewables, what has been introduced in
12 the Congress, first, in terms of, or the various
13 state legislatures in terms of timing and amount.

14 Q. So the answer to my question is for the
15 first year of compliance you don't know what percent
16 of Kentucky Power's energy sales would have to be
17 renewable sitting here right now today?

18 A. No. Given the fact there's no
19 legislation, that's correct.

20 Q. And you don't know what their renewable
21 requirement would be year two, year three, whenever
22 this might be enacted?

23 A. No.

24 Q. Okay. Do you know if energy efficiency

1 will count towards the renewable goals, sitting here
 2 right now, in this yet-to-be-enacted legislation?

3 A. I can state that at least from
 4 legislation being contemplated both in the
 5 Commonwealth of Kentucky as well as at a national
 6 level in terms of the Waxman-Markey bill, House Bill
 7 2454, as well as Senate Bill 1462, that indeed there
 8 was an element, the combination of both an RES as
 9 well as an EES, so there was an energy efficiency
 10 standard incorporated into the total universe of
 11 legislation.

12 Q. And sitting here today you don't know --
 13 you don't know in this yet-to-be-enacted legislation
 14 whether existing hydro resources will count as
 15 renewable?

16 A. The legislations I've seen introduced to
 17 this point would typically only count incremental
 18 hydro.

19 Q. It's possible to count existing hydro in
 20 this yet-to-be-enacted legislation.

21 A. Anything's possible.

22 Q. Okay. Do you know that if the state of
 23 Kentucky passes a renewable law, whether or not the
 24 compliance would have to be from in-state resources?

1 A. No, I do not.

2 Q. So there's a fair degree of uncertainty
3 about what the legal requirements for Kentucky Power
4 will be with respect to renewables; is that a fair
5 statement?

6 A. Certainly, but again, from a planning
7 perspective it's part of my job to work with others
8 who have their ear to the ground, if you will, and
9 try to make a determination of what the post
10 prospects are. A lot of what we deal with is around
11 probability.

12 Q. You understand it's the job of the
13 Commission to keep rates on consumers low and
14 reasonable. You understand that?

15 A. I perfectly understand that, and I think
16 from my perspective it's not only in the short-term,
17 but also over the long-term that I think the
18 Commission, or any other regulatory body, is
19 concerned about rates, and by being basically ahead
20 of the decision-making our thinking is that the
21 customers of Kentucky Power Company will be benefited
22 by being that early mover.

23 Q. You have renewable energy certificates,
24 RECs, discussed or described in your testimony; is

1 that correct?

2 A. Yes.

3 Q. Okay. Can you explain to the Commission
4 what a REC is?

5 A. It's -- a renewable energy certificate is
6 effectively a representation that a certain amount of
7 renewable energy has been achieved from a source who
8 is in effect offering up that certificate for perhaps
9 sale in some fungible market. So it's basically an
10 identification that someone out there has, in fact,
11 achieved a certain level of reduction or a certain
12 level of generation associated with a renewable
13 resource.

14 And these RECs are, in fact, typically
15 monitored based on standards that may be enacted by a
16 state level or what's being contemplated at a federal
17 level to ensure that, in fact, they're real and
18 certifiable, obviously.

19 Q. Now, you would agree with me, wouldn't
20 you, that right now there's no liquid market for
21 RECs?

22 A. I guess what do you mean by a liquid
23 market?

24 Q. Could I go to the Wall Street Journal and

1 look in the futures and see what the price of these
 2 things are?

3 A. Yeah; for the most part, even tho se
 4 states that have state renewable portfolio st andards,
 5 those levels -- or, those markets I would say
 6 probably are not liquid from that standpoint.

7 Q. Has AEP in the last 24 months bou ght or
 8 sold an REC, renewable energy certificate?

9 A. I believe we have.

10 Q. Which one, buy or sell?

11 A. Purchase.

12 Q. How much did you pay?

13 A. I do not know.

14 Q. Do you know for what year of comp liance
 15 it was for?

16 A. I believe it was for the year 200 9.

17 Q. And that was to achieve complianc e in
 18 which jurisdiction?

19 A. I believe it was the Ohio jurisdi ction.

20 Q. Do you know who you bought it fro m?

21 A. I do not.

22 Q. Do you know the volume?

23 A. I do not.

24 Q. Okay. Is AEP currently working o n a

1 systemwide renewable energy compliance plan, in other
2 words, not just a utility-by-utility, but an AEP
3 poolwide plan?

4 A. I wouldn't --

5 Q. Like you have for the interim allowance
6 agreement for emission allowances under the Clean Air
7 Act.

8 A. I'm not aware of any pooling agreement
9 per se. Basically, the company is looking at
10 achieving systemwide participation among its
11 operating companies in terms of establishing
12 renewable type contracts at this juncture, but
13 nothing in the way that would establish any type of a
14 pooling arrangement. Effectively, they're on their
15 own.

16 Q. Assume that the Commission approves the
17 wind contract under consideration. You would have
18 renewable energy credits beginning to flow with each
19 megawatt-hour purchased.

20 A. Yes.

21 Q. Okay. And because there's no federal or
22 state mandate at this point in Kentucky, what would
23 you do with those renewable energy credits?

24 A. Well, a policy has not been established

1 by senior management in terms of whether they would
2 be held. That would be the initial assumption, they
3 would be held under the notion that those allowances
4 (inaudible) could be carried forward.

5 Q. Do we know how long under the law they're
6 allowed to be carried forward if they're
7 indefinitely -- you can't bank them indefinitely, can
8 you?

9 A. Again, not having passage of any
10 legislation yet that would dictate protocols in terms
11 of how long they would be held, I don't know.

12 Q. Okay. Is there any aspect of this rate
13 case where Kentucky Power's attempted to quantify the
14 value of these RECs achieved by Kentucky Power prior
15 to any legal requirement to have renewable resources?
16 In other words, is there a revenue requirements
17 offset?

18 MR. SATTERWHITE: Can I object for one
19 second. This is the power purchase contract case,
20 not the rate case. Did you mean the rate case or did
21 you mean --

22 MR. KURTZ: No, I mean the rate case.

23 I want to make a general statement, your
24 Honor. What we're litigating here per this

1 settlement agreement in the rate case is, number one,
2 should the Commission approve this wind contract, and
3 then number two, if yes, what's the revenue
4 requirement that would get carried over into the rate
5 case because there's a hard-wired mechanism for
6 flowing through those dollars.

7 So the two are interrelated. You've got
8 to decide should the contract be approved, and if
9 yes, how much money is it going to cost consumers.
10 So I think they're completely related and relevant.
11 So my question was to the rate case.

12 CHAIRMAN ARMSTRONG: I'm going to allow
13 it.

14 MR. SATTERWHITE: Okay.

15 A. Could you repeat the question?

16 Q. Is there any aspect of the rate case that
17 you're aware of where Kentucky Power's attempted to
18 quantify the value of these RECs that would be
19 accumulated by Kentucky Power prior to there being a
20 legal requirement for renewables and how that
21 banking, so to speak, would be used as an offset to
22 revenue requirements?

23 A. I'm not aware of any calculation.

24 Q. The contract at issue here, Kentucky

1 Power will pay for the energy delivered by the wind
 2 developer, correct?

3 A. That's my understanding, yes.

4 Q. Okay. And they would pay more during the
 5 super-peak periods, somewhat less during the peak
 6 periods, and less during the off-peak period.

7 A. Yes. I'll point out, though, for
 8 specific questions regarding terms or conditions
 9 under the agreement I'd probably defer them to
 10 Mr. Godfrey.

11 Q. Well, I'd like to ask, you're familiar
 12 with "capacity factor," correct, that phrase?

13 A. Yes.

14 Q. Okay. And the higher the capacity factor
 15 of this wind project, the more megawatt-hours will be
 16 delivered to Kentucky Power and the more money
 17 Kentucky Power will have to pay; is that correct?

18 A. That's correct.

19 Q. Okay. So in order to determine the
 20 revenue requirement for the rate case, an assumption
 21 had to be made by Kentucky Power as to what the
 22 capacity factor of this wind machine would be,
 23 correct?

24 A. That's correct.

1 Q. Okay. And pursuant to I think your
2 direction, certainly you or Mr. Godfrey, the capacity
3 factor assumption for rate-making purposes was
4 39.3 percent?

5 A. That's correct.

6 Q. Let me just ask you just briefly, in your
7 prefiled direct testimony at pages 9 and 14 and 15
8 you looked at -- why don't we just take them in
9 order. Page 9 of your direct. Are you there ?

10 A. Yes.

11 Q. Okay. Do you see the footnote No . 5
12 where you have a 35 percent assumed capacity factor
13 for AEP for pool planning purposes for a wind power
14 capacity factor?

15 A. Yes, I see the 35 percent.

16 Q. That does not relate specifically to this
17 project. That's just sort of a general assumption
18 you've made in this calculation.

19 A. It's a generic example to give, a gain, a
20 rough estimation of the percentage associated with
21 renewable energy by 2011.

22 Q. Okay. And then will you turn to page 14,
23 line 19, you again use that same generic assumption
24 about the capacity factor of 35 percent.

1 A. Yes. It's a proxy.

2 Q. Right. And then if you turn the page to
3 page 15 in your table there, when you're doing a
4 proxy general calculation for Kentucky Power, again,
5 you use an assumed capacity factor of 35 percent; is
6 that correct?

7 A. That's correct.

8 Q. Okay. Now, just, again, the lower the
9 capacity factor the less the revenue requirement for
10 the rate case.

11 A. That's correct.

12 Q. Because what we're doing is we're going
13 to get a revenue requirement that is assumed to flow
14 from this contract of the 39.3 percent capacity
15 factor and that revenue requirement will then be
16 baked into base rates until the next rate case.

17 A. That's my understanding.

18 Q. Okay. Just for clarification, capacity
19 factor is essentially the -- if the wind machine ran
20 at 8,760 hours of the year, around the clock
21 24/7/365, that would be a hundred percent capacity
22 factor. Anything -- if it rates less during the
23 year, that's the capacity factor.

24 A. That's correct.

1 Q. Okay.

2 A. I think just as, just for clarifi cation
3 for the record, a 35 percent number, obviousl y, we've
4 agreed is a proxy, but I think in looking at the
5 sources of wind energy across our system, in
6 particular AEP-East's system, some of those s ites are
7 located in areas that are more or less conduc ive to
8 wind. This particular site is located in Ill inois.
9 There are other sites we've taken down PPAs i n
10 Indiana, others in the state of West Virginia as an
11 example.

12 So I think effectively the furthe r west
13 you go, the higher the capacity factor. So t his is a
14 proxy I think that was utilized for purposes of
15 representing an AEP-East position.

16 Q. Okay.

17 A. But still a proxy.

18 MR. KURTZ: Your Honor, I'd like to have
19 marked KIUC Cross-examination Exhibit No. 1, which is
20 a compilation of data responses. By the way, there
21 is some confidential information here and I g uess I
22 would just advise the Bench that anybody who' s not
23 signed a confidentiality agreement should pro bably
24 not be in the room.

1 Can we go off the record for a se cond,
2 your Honor?

3 CHAIRMAN ARMSTRONG: Yes.

4 MR. NGUYEN: Your Honor, I'll est ablish
5 we are going to be touching upon some confide ntial
6 data, we might not want to stream it live ove r our
7 website.

8 CHAIRMAN ARMSTRONG: Well, I'm no t sure I
9 know how to block that out.

10 MR. COOK: I think your technical people
11 probably know.

12 MR. NGUYEN: Should we go off the record
13 and then --

14 CHAIRMAN ARMSTRONG: Let me just ask,
15 Mr. Kurtz, are you going to refer to specific
16 confidential numbers?

17 MR. KURTZ: Yes.

18 THE EXAMINER: We'll go back off the
19 record right now.

20 (Off the record.)

21 CHAIRMAN ARMSTRONG: Could we hav e the
22 two folks who were not privileged to the
23 confidentiality agreement ahead of time give us your
24 names again.

1 MS. McCANN: Yes, your Honor, I'm
2 Kimberly McCann with the law firm VanAntwerp, Monge,
3 Jones, Edwards & McCann.

4 MR. GOSS: May it please the Commission,
5 your Honor, Mark David Goss. I actually represent,
6 as I said earlier, NextEra Energy, FPL Wind Illinois.
7 As I understand this data, this confidential data
8 that's about to be discussed is, in fact, my client's
9 data. So I'm very happy to sign a confidentiality
10 agreement if need be, but I'm not sure it's necessary
11 on behalf of my own client's being discussed, so I'll
12 leave that up to the Commission's discretion and the
13 parties' discretion.

14 CHAIRMAN ARMSTRONG: We just wanted to
15 have your names on the record here.

16 All right. We have received your exhibit
17 and it will be marked Exhibit 1.

18 MR. KURTZ: KIUC Cross-examination
19 Exhibit 1.

20 (EXHIBIT MARKED FOR IDENTIFICATION.)

21 Q. (By Mr. Kurtz) Mr. Weaver, do you have
22 that document in front of you, sir?

23 A. Yes, I do.

24 Q. Okay. Page 2 of the document --

1 UNIDENTIFIED SPEAKER: Hang on, Mike.

2 Thank you. Let's go off the record.

3 (Discussion off the record.)

4 CHAIRMAN ARMSTRONG: We're going to
5 remain off, my understanding, while you discuss this
6 material, and when you're finished discussing it, our
7 technician in the back is going to -- I will here
8 take us off the record again and he will put us back
9 on the master tape. This is going to be on a tape
10 marked "Confidential." Do you understand that?

11 MR. KURTZ: Yeah, Mr. Chairman. I will
12 say probably there will be reference back and forth
13 throughout the cross-examination of Mr. Weaver that
14 refers to confidential material. I would just
15 suggest that his whole cross-examination, at least
16 from me, be in the confidential transcript.

17 MR. SATTERWHITE: Just out of an
18 abundance of caution, does "on air" mean we're
19 streaming everywhere, or does "on air" mean it's just
20 being recorded? So if the lights are on, we should
21 assume that it's being viewed?

22 TECHNICIAN: (Inaudible) you want to turn
23 the light off, if you don't want it to go outside
24 this room. Turn it --

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CHAIRMAN ARMSTRONG: Thank you.

TECHNICIAN: Not that one, but th at one.
There you go. Now it's being recorded, but i t's not
going outside this room.

(CONFIDENTIAL PORTION EXCERPTED.)

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(OPEN RECORD.)

MR. NGUYEN: Thank you, your Honor.

CHAIRMAN ARMSTRONG: Mr. Nguyen.

- - -

CROSS-EXAMINATION

By Mr. Nguyen:

Q. Good afternoon, Mr. Weaver.

A. Good.

Q. Do you have the application in front of you?

A. Are you referring to testimony?

Q. No; the application itself. It was signed, it was under Mr. Mosher's signature, but --

A. I don't know that I have it.

Q. Do you have a copy of that so --

MR. SATTERWHITE: I'm sorry, I missed it. Are you talking about the application?

MR. NGUYEN: Yes.

Q. If you can turn to page 10 of the application and paragraph No. 30, just a point of clarification. On the first sentence it says "Kentucky Power's peak demand (1685 megawatts) exceeds its installed and contractual capacity" and

1 indicates 1,353 megawatts by 353 megawatts. I just
 2 want to clarify that Kentucky Power's total capacity
 3 is 1,453 as opposed to 1,353; is that correct? The
 4 1,060 --

5 A. 1,060 plus 393 for Rockport, I believe
 6 that's the case.

7 Q. So that's 1,453, correct?

8 A. I --

9 Q. Subject to check.

10 A. Not having an adding machine in my head;
 11 yes.

12 Q. Okay. So the difference between that
 13 would be 232 megawatts.

14 A. Again, if that's the arithmetic.

15 Q. Okay.

16 VICE-CHAIRMAN GARDNER: Excuse me. Where
 17 is that again, please?

18 MR. NGUYEN: Just the first paragraph,
 19 I'm sorry, the first sentence in paragraph No. 30.

20 UNIDENTIFIED SPEAKER: Page 10.

21 VICE-CHAIRMAN GARDNER: Thank you.

22 MR. NGUYEN: Yes, Page 10.

23 Q. (By Mr. Nguyen) Same paragraph,
 24 Mr. Weaver, second sentence where it begins with

1 "Although Kentucky Power has historically relied upon
2 capacity and energy purchases from the generating
3 resources of other AEP operating companies in the
4 AEP-East Pool," do you know how long Kentucky Power's
5 been relying upon the capacity and energy resources
6 of the other AEP-East operating companies?

7 A. I don't know in terms of when it became a
8 deficit member of the pool, if that's what you're
9 asking.

10 Q. Has it been more than ten years?

11 A. Subject to check, I believe that's the
12 case, yes.

13 Q. In the same sentence it ends with
14 Kentucky Power cannot prudently or contractually do
15 so, rely upon the other AEP operating companies in
16 the AEP-East pool, for an extended amount of time.
17 Can you explain in more detail why it would not be
18 prudent for Kentucky Power to so rely upon the other
19 AEP-East operating companies for the capacity or
20 energy resources?

21 A. The spirit of the interconnection
22 agreement, in my opinion, having read the agreement
23 multiple times, is that each of the member companies
24 would be participatory in terms of providing new

1 capacity and energy at such point in time the system
2 had a need; that basically whoever has the largest
3 relative deficit position would be, again,
4 responsible for adding that next block of capacity.

5 Q. You mentioned that the system has a need.
6 Does the system have a need now?

7 A. The system does not have a capacity need
8 at this point in time.

9 Q. Okay. And if you can refer to your
10 exhibit in your testimony, Exhibit 1B. It's SCW-1B.

11 A. In the direct testimony?

12 Q. I'm sorry, yeah, it's your testimony.

13 A. Okay.

14 Q. Column 8 where it lists the existing
15 capacity and planned changes, this is for the --
16 based on the summer peak demand for Kentucky Power
17 Company, beginning on 2009 projected through 2023, in
18 2022 -- on 2023, up to 2022 there's a drop-off of
19 about 266 megawatts. And below it says there's a
20 retirement of 260 megawatts in 2023. Can you explain
21 what that retirement is?

22 A. I believe that is a representation for
23 planning purposes, long-term planning purposes, the
24 retirement of Big Sandy 1.

1 Q. Okay. And the decreases in the existing
2 capacity and plant changes from 2014 through 2022, it
3 goes from 1,452 megawatts to 1,388. Can you explain
4 those changes, why the decreases?

5 A. I think the initial reduction has to do
6 with identified deratings associated with Big Sandy 2
7 that are footnoted in footnote G -- D, excuse me.

8 Q. Okay. For all those years?

9 A. Well, I think the effect is in 2015.
10 There's an assumed 25-megawatt derate associated for
11 (inaudible) injection and 40 megawatts associated
12 with a flue gas desulfurization and scrubber derate.

13 Q. Okay.

14 MR. NGUYEN: I have no further questions,
15 your Honor.

16 MR. SATTERWHITE: A couple of redirect --

17 CHAIRMAN ARMSTRONG: Yes.

18 MR. SATTERWHITE: -- please.

19 MR. CLARK: Could I have just a moment?

20 - - -

21 REDIRECT EXAMINATION

22 By Mr. Satterwhite:

23 Q. Let's talk for a second about the
24 question about the need for capacity currently on the

1 system. Are there other reasons to go forward with
2 this wind contract besides the need for capacity?

3 A. Absolutely. Again, as detailed in both
4 my direct and rebuttal testimony, AEP system as well
5 as Kentucky Power Company are trying to be early
6 movers in terms of anticipating the prospect of
7 federal climate change legislation which would serve
8 to cause us to need to reduce our carbon footprint,
9 our CO2 footprint, and of course renewable energy is
10 carbon free by its very nature.

11 And as far as any potential comprehensive
12 legislation, again, the firm belief that there will
13 be a federal renewable portfolio standard, so the
14 notion is, again, try to -- given the fact that we
15 are a large system, Kentucky Power, relatively
16 speaking, is not that necessarily large an individual
17 company, but yet again, even if we're talking about a
18 5,000 or 6,000 or 7,000 gigawatt-hour load, if you're
19 dealing with ultimately a 10 percent requirement as
20 relates to renewable energy by a particular point in
21 time, that's quite a bit of renewable resources that
22 would be needed to achieve that.

23 So we're viewing this as an opportunity
24 to get started down that process, take advantage of

1 the production tax credits that are being afforded
2 from project developers and get those projects
3 recognized as prudent.

4 Q. So in your opinion, then, was it a
5 prudent management decision to seek out and enter
6 into this wind contract?

7 A. Yes.

8 Q. Just to clear something up, I think there
9 might be some confusion. You were asked by the
10 attorney general's office earlier about whether it's
11 premature to make a determination on capacity
12 factors. When you made a statement earlier, were you
13 referring to the prematureness of using four months
14 of start-up data or were you referring to overall
15 it's premature to say it's time to make a capacity
16 factor judgment?

17 A. Based on only having four months of
18 information I believe one cannot use that as a
19 barometer in terms of what the overall performance of
20 that facility is going to be.

21 Q. So you weren't saying it's premature in
22 all cases to make a forward-looking, what the
23 capacity factor should be, you're just saying not to
24 rely on that data specifically as to --

1 A. That's correct.

2 Q. Okay. I'd like to draw -- do you still
3 have in front of you KIUC Cross Exhibit --

4 UNIDENTIFIED SPEAKER: Is this
5 confidential --

6 MR. SATTERWHITE: No.

7 Q. -- 5? What's represented to be a Wall
8 Street Journal article.

9 MR. SATTERWHITE: I hope it's not
10 confidential.

11 A. Yes, I have it.

12 Q. Had you seen this before today at all?

13 A. No.

14 Q. Okay. Do you know for a fact this is
15 from the Wall Street Journal of this date?

16 A. I was looking at the header as you are.

17 Q. And if this is the Wall Street Journal
18 article, the numbers you were questioned on about the
19 natural gas prices, are those -- is it your
20 understanding those numbers stay constant or do those
21 fluctuate day to day?

22 A. This is representative of a futures
23 market and they could be extremely volatile depending
24 on world events, events domestically, but they do not

1 represent a fundamental forecast based on typical
 2 supply and demand dictates. So indeed they could be
 3 very volatile.

4 Q. So if we were to accept this as true, you
 5 would see it as just a snapshot in time?

6 A. Based on this day.

7 Q. Okay. Versus the analysis you do which
 8 is different?

9 A. I receive -- as part of the resource
 10 planning process we have experts within the
 11 organization who basically create a long-term
 12 fundamental commodity pricing forecast that, again,
 13 has separate software applications that actually
 14 project long-term the cost of various commodity
 15 prices including natural gas.

16 MR. SATTERWHITE: Thank you, Chairman.
 17 That's all I have right now.

18 CHAIRMAN ARMSTRONG: Thank you.

19 Further questions?

20 MR. COOK: No questions, your Honor.

21 MR. KURTZ: No questions.

22 MR. NGUYEN: No questions.

23 CHAIRMAN ARMSTRONG: Questions from the
 24 commissioner?

1 VICE-CHAIRMAN GARDNER: More than one,
2 I'm sorry. And I hate to do this, but I think I'm
3 going to be asking a few more questions from the
4 exhibits but I'm not confident of that so I think I
5 need to make a confidential (inaudible), asking
6 confidential questions. I'm sorry.

7 CHAIRMAN ARMSTRONG: Confidential to
8 what?

9 VICE-CHAIRMAN GARDNER: These exhibits.

10 MR. KURTZ: Your Honor, I should say this
11 on the record, that KIUC Exhibit 2 should be marked
12 as confidential as well as Exhibit 1.

13 (Several-second lapse in recording.)

14 MR. SATTERWHITE: It looks like it's also
15 from the record, data from the record that exists,
16 and we'd prefer to have the documents filed in the
17 record ahead of time speak for themselves rather than
18 a compilation made.

19 For Cross Exhibit No. 3, Mr. Weaver was
20 questioned on a column he said he had no idea what
21 the numbers meant; there's really no reason to put
22 that in the record. He couldn't validate, couldn't
23 answer any questions based upon that.

24 Item No. 4 is just the underlying data

1 that he relied upon, so that's fine.

2 Item No. 5, I mean, we really don't know
3 where it came from. The witness could not identify
4 any foundation for it and it's really just seeking to
5 put new evidence in the record that the witness for
6 KIUC could have put in a long time ago, and we don't
7 see a reason to put that in the record.

8 And for KIUC item No. 6, really this is
9 Mr. Kurtz testifying to the net present value. This
10 wasn't anything that the witness did. It's a
11 document prepared by him with some other information
12 from the witness, but really the only new data in
13 there is something that he sponsored versus a witness
14 in the case, so we'd object to that as well.

15 MR. KURTZ: Your Honor, the Commission is
16 being asked to approve a 20-year contract starting
17 out at \$20 million a year escalating at 2.25 percent
18 per year beginning 2012. This is a \$500 million
19 contract that the company's asking the consumers of
20 eastern Kentucky to pay for for that 20 years. I
21 think it's very important for the Commission to have
22 all the relevant information it can have to render a
23 judgment as to whether or not this is a good idea or
24 not, and if it is a good idea, how much the rate

1 increase ought to be.

2 So I think all these documents are
3 relevant and probative and the Commission can give
4 them whatever value it deems appropriate when
5 rendering a decision on this very important rate
6 increase.

7 MR. SATTERWHITE: With all due respect,
8 your Honor, I appreciate Mr. Kurtz's passion, but if
9 he wants to appear as a witness next time and put
10 this stuff in the record as a witness, that's a
11 different story, but at this point I don't see a
12 reason to add them in at the last second.

13 MR. COOK: Mr. Chairman, on behalf of the
14 attorney general I don't know that I've ever heard of
15 any kind of objections to these exhibits that I'd
16 ever heard -- I don't know that I've ever heard in my
17 career any kind of objections to anybody introducing
18 an article from a newspaper that anybody can take
19 notice of, and the Commission has always allowed
20 exhibits from the record. I think, I just don't see
21 any basis for any kind of objection for these
22 exhibits being entered.

23 CHAIRMAN ARMSTRONG: I'm going to allow
24 them in as to what they represent and we are able to

1 distinguish whether or not there are foundati ons laid
2 for them. We will be able to sort the wheat from the
3 chaff.

4 MR. SATTERWHITE: Thank you.

5 (EXHIBITS ADMITTED INTO EVIDENCE.)

6 CHAIRMAN ARMSTRONG: Commissioner .

7 UNIDENTIFIED SPEAKER: Your Honor the
8 tape has been changed if you'd just switch of f the --

9 CHAIRMAN ARMSTRONG: Thank you.

10 Commissioner.

11 (CONFIDENTIAL PORTION EXCERPTED.)

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(OPEN RECORD.)

CHAIRMAN ARMSTRONG: Okay.

MR. KURTZ: Mr. Chairman, I did j ust want
to point out again --

(Several-second lapse in recordin g.)

CHAIRMAN ARMSTRONG: Okay.

MR. KURTZ: And Exhibit 4 as well , your
Honor. Thank you, Mr. Satterwhite.

MR. NGUYEN: So what is it, 1?

MR. KURTZ: 1, 2, 4, 6.

CHAIRMAN ARMSTRONG: Any further
questions of this witness?

Thank you very much. You're excu sed.

(Witness excused.)

MR. SATTERWHITE: How did the Com mission
want to proceed? We're willing to move forwa rd, but

1 I'm not sure what everybody else's schedule allows
2 for.

3 MR. KURTZ: I guess we have three more
4 company witnesses and then the KIUC witness. KIUC
5 probably has limited cross, maybe 20 minutes, 25
6 minutes.

7 MR. BOEHM: Apiece?

8 MR. KURTZ: No. No. Total. I guess a
9 half hour total.

10 CHAIRMAN ARMSTRONG: You have one more
11 witness, is that it?

12 MR. SATTERWHITE: We have three more
13 witnesses.

14 CHAIRMAN ARMSTRONG: Three more
15 witnesses. We can go forward.

16 MR. SATTERWHITE: Move forward? I'm
17 sorry.

18 CHAIRMAN ARMSTRONG: Move forward, yes.

19 MR. SATTERWHITE: The company would like
20 to call Thomas Myers to the stand.

21 (Witness sworn.)

22 CHAIRMAN ARMSTRONG: Have a seat. Speak
23 up loud and clear, your name, your address, and your
24 reason for being here.

1 THE WITNESS: I'm Thomas M. Myers , Vice
2 President of Commercial Analysis. I am -- re side at
3 155 West Nationwide Boulevard, Columbus, Ohio 43215.

4 MR. SATTERWHITE: Thank you,
5 Mr. Chairman.

6 - - -

7 THOMAS M. MYERS

8 being first duly sworn, as prescribed by law, was
9 examined and testified as follows:

10 DIRECT EXAMINATION

11 By Mr. Satterwhite:

12 Q. Mr. Myers, did you cause rebuttal
13 testimony to be filed in this docket?

14 A. I did.

15 Q. Do you have any corrections to th at
16 testimony that you filed?

17 A. I do not.

18 Q. If we were to ask you all these s ame
19 questions today, would your answers be the sa me?

20 A. They would.

21 MR. SATTERWHITE: Okay. The comp any
22 turns the witness over for cross-examination.

23 CHAIRMAN ARMSTRONG: Mr. Kurtz.

24 MR. KURTZ: No questions, your Ho nor.

1 CHAIRMAN ARMSTRONG: Attorney Gen eral?
2 MR. COOK: No questions, your Hon or.
3 CHAIRMAN ARMSTRONG: Mr. Nguyen.
4 MR. NGUYEN: No questions your Ho nor.
5 CHAIRMAN ARMSTRONG: Thank you fo r
6 coming.
7 MR. SATTERWHITE: Congratulations .
8 MR. CLARK: He's going to object to
9 having to come here.
10 MR. SATTERWHITE: Now I'll be in trouble.
11 MR. CLARK: He's so effective, he shut
12 everybody up with his presence.
13 (Witness excused.)
14 CHAIRMAN ARMSTRONG: Your next wi tness.
15 MR. SATTERWHITE: Your Honor, the company
16 would like to call Marc Reitter to the stand.
17 (Witness sworn.)
18 CHAIRMAN ARMSTRONG: Have a seat. Speak
19 up loud and clear and give your name and your address
20 and why you're here.
21 THE WITNESS: Marc D. Reitter, ma nager of
22 Corporate Financial for AEP Service Corporati on
23 located at One Riverside Plaza, Columbus, Ohi o 43215.
24 MR. SATTERWHITE: Mr. Chairman.

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MARC D. REITTER

being first duly sworn, as prescribed by law, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Satterwhite:

Q. Mr. Reitter, did you cause testimony, rebuttal testimony to be filed in this docket ?

A. Yes.

Q. Do you have any changes or corrections to that testimony?

A. I do not.

Q. If we were to ask you all these same questions today that's in this testimony, would your answers be the same?

A. Yes.

MR. SATTERWHITE: I tender the witness for cross-examination.

- - -

CROSS-EXAMINATION

By Mr. Kurtz:

Q. Good afternoon, Mr. Reitter. You testified in rebuttal to Mr. Kollen; is that true?

A. Yes.

Q. He testified that the rating agencies can

1 or sometimes do impute a long-term purchase agreement
2 as debt and, therefore, there has to be an equity
3 addition to maintain a proper capitalization, and
4 that's a cost he calculates and he said that wasn't
5 considered by Kentucky Power. Is that generally the
6 way you understood his testimony?

7 A. Yes, his testimony, yeah, that is
8 correct. I believe, though, that S&P is to impute
9 the largest amount of debt as relates to this
10 contract.

11 Q. Okay. And your testimony is that the
12 company does not intend to ask for additional revenue
13 related to the imputed debt calculation and so,
14 therefore, the Commission should not be concerned
15 about this issue.

16 A. The company believes there will be no
17 debt imputed to Kentucky Power.

18 Q. Okay. How would we verify -- how would
19 we verify that? For example, Kentucky Power's
20 current equity capitalization is 42 percent?

21 A. I believe that's approximate, yeah.

22 Q. Okay. And if in the next rate case it
23 goes up to -- this wind contract's approved and in
24 the next rate case it goes up to 46 percent, how will

1 we know that some of that wasn't the cause -- wasn't
2 caused by the wind contract? How can we, if the
3 Commission takes you at your word, how can we verify
4 that that's the case?

5 A. Well, you -- the rating agencies in this
6 event, this theoretical event, S&P, it's a
7 hypothetical, let's say they were to impute that,
8 that would be reflected on Kentucky Power's parent
9 company, AEP, so you would see that adjustment made
10 at AEP, not Kentucky Power.

11 Q. So if this contract's approved, in the
12 next rate case somebody from AEP or Kentucky Power
13 will be able to verify to the Commission that there
14 was no increased equity capitalization as a result of
15 this contract?

16 A. They would be able to verify there was no
17 debt imputed to Kentucky Power.

18 MR. KURTZ: Thank you, Mr. Chairman.

19 CHAIRMAN ARMSTRONG: Questions,
20 Mr. Nguyen?

21 MR. NGUYEN: No questions, your Honor.

22 CHAIRMAN ARMSTRONG: Commissioners?

23 Thank you very much, Mr. Reitter.

24 (Witness excused.)

1 MR. SATTERWHITE: Your Honor, the company
2 would like to call Jay Godfrey to the stand.

3 (Witness sworn.)

4 CHAIRMAN ARMSTRONG: Have a seat. Speak
5 up loud and clear, your name, your address, and why
6 you're here.

7 THE WITNESS: My name is Jay Godfrey, I'm
8 the managing director for American Electric Power
9 Service Corporation, my address there is 155 West
10 Nationwide Boulevard, Columbus, Ohio 43215?

11 MR. SATTERWHITE: Thank you,
12 Mr. Chairman.

13 - - -

14 JAY F. GODFREY

15 being first duly sworn, as prescribed by law, was
16 examined and testified as follows:

17 DIRECT EXAMINATION

18 By Mr. Satterwhite:

19 Q. Mr. Godfrey, did you cause testimony to
20 be filed in this proceeding today?

21 A. I did.

22 Q. Do you have any changes or corrections to
23 that testimony?

24 A. No, I do not.

1 Q. If I asked you all the same questions in
2 your testimony today, would your answers be the same?

3 A. They would.

4 MR. SATTERWHITE: Thank you. I now
5 tender the witness for cross-examination.

6 MR. KURTZ: Thank you, Mr. Chairman.

7 - - -

8 CROSS-EXAMINATION

9 By Mr. Kurtz:

10 Q. Good afternoon, Mr. Godfrey.

11 A. Good afternoon.

12 Q. Would you agree that the wind power
13 industry has evolved in terms of efficiency since
14 you've been in that industry?

15 A. Most definitely. The turbines of today
16 operate much better than turbines put in service 20
17 years ago.

18 Q. Do you expect that evolution to continue
19 with increased efficiency?

20 A. I think that most of the efficiency gains
21 have been squeezed out, but there are rooms for
22 improvement and we've seen some just in the recent
23 years. Although increases in efficiency also come
24 with increases in cost.

1 Q. Are you aware of the General Electric
2 announcement that they have something called wind
3 boost control software?

4 A. Yes.

5 Q. What is that?

6 A. I am not a mechanical engineer, but they
7 have software that controls the power curve of how a
8 turbine interacts at various different wind speeds.

9 MR. KURTZ: Your Honor, I guess very
10 quickly mark as KIUC Cross-exam No. 7.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 Q. I'll represent this is a press release
13 from General Electric discussing NextEra -- NextEra
14 is the wind power developer in this case, correct?

15 MR. SATTERWHITE: Your Honor, before he
16 answers, as I warm up to the jurisdiction down here
17 I'll try this before we have any questions on the
18 exhibit. This appears, again, to be just something
19 to put into the record that could have been done by
20 witnesses previously in the case and I don't think
21 doing it through the company's witness is appropriate
22 so I would object to the usage of this document.

23 MR. KURTZ: The standard for admission of
24 a document on cross-examination isn't whether it

1 could have been put in on the direct testimony of a
2 party, because if that were the standard, nothing
3 would ever be admitted under cross-examination.

4 MR. SATTERWHITE: I guess --

5 MR. KURTZ: It's relevant to the
6 witness's testimony and he's familiar with it and I
7 think it's probative.

8 MR. SATTERWHITE: Well, I guess the point
9 I'd argue there is this is a press release. He said
10 he's familiar with the concept of the technology, not
11 the press release from GE. He really could give no
12 foundation to say that in response to this document.

13 MR. KURTZ: You know, I think we ought to
14 be more concerned about the fundamentals of this
15 400-, 500 million dollar contract that Kentucky Power
16 is asking the consumers to pay for for 20 years
17 rather than the technicalities when they're trying to
18 protect expert Commission and staff from General
19 Electric press releases dealing with the type of wind
20 power developments exactly that Kentucky Power's
21 purchasing.

22 MR. COOK: Thank you.

23 CHAIRMAN ARMSTRONG: Let me ask, are you
24 familiar with this press release?

1 THE WITNESS: No, but I'm happy to answer
2 some limited questions. I have an MBA in finance.
3 I'm a business guy. I have been in the wind industry
4 for a number of years. If there are some -- I'm
5 happy to help where I can.

6 CHAIRMAN ARMSTRONG: That's all right.

7 MR. SATTERWHITE: You tried. Thanks.

8 THE WITNESS: But thank you, Counselor.

9 Q. (By Mr. Kurtz) This is about the GE wind
10 boost control software, which you are aware of.

11 A. I'm aware that they're always trying to
12 come out with some advances. And in this case it
13 looks like for an older model of wind turbine. So it
14 would be like putting a new muffler on your
15 five-year-old Chevy.

16 Q. Well, isn't the NextEra units at this
17 particular wind farm 1.5-megawatt GE units?

18 A. Yeah, but they're XLEs.

19 Q. This is referring to an --

20 A. SLE.

21 Q. Okay. So --

22 A. So this would be similar to the turbine
23 at Camp Grove.

24 Q. Which is --

1 A. The new turbines have a much better power
2 curve than the turbines at Camp Grove.

3 Q. And that's part of the evolving
4 technology in the wind industry.

5 A. Well, they have bigger blades. The XLE
6 has bigger blades, so a bigger -- a turbine with a
7 bigger wingspan with the same generator is at the
8 same wind speed going to put out more power. It
9 costs more, but it's going to be able to put out more
10 power.

11 Q. And in fact -- are you familiar with the
12 2.5-megawatt GE units that they've announced that
13 would also be exactly that, more efficient, bigger?

14 A. Right. But that's also a bigger
15 generator so there's a cost-benefit analysis. To my
16 knowledge, nobody's buying those in the U.S. yet
17 because the cost per megawatt-hour is actually higher
18 than their most efficient 1.5 or 1.6 megawatt
19 turbine.

20 Q. Do you think that the technology in the
21 wind industry has fully matured and has no additional
22 room for improvement?

23 A. Absolutely not.

24 Q. So if the Commission were to turn down

1 this contract, there could be a more efficient,
2 cheaper, better wind contract that comes along in the
3 future; isn't that correct?

4 A. Well, I think that's a little bit of a
5 false premise. I'll give you an example. When AEP
6 built its first wind project in the early part of
7 this past decade, 2001-2002, it paid approximately
8 \$1 million per installed megawatt to install those
9 projects; they had a little bit lower power curve.
10 But today the going price for new installed wind
11 projects is approximately \$2 million.

12 So over a period of about eight years
13 you've seen a doubling of the installed costs,
14 commodity costs, and also supply and demand. And so
15 I'm, you know, we're of the contention that when
16 demand goes up for a certain product, that, you know,
17 the prices have a potential of significantly
18 increasing, especially if supply is constrained.

19 Q. Your 2009 RFP brought in much lower
20 pricing for the renewable projects than your 2008
21 RFP; did it not? Prices went down from 2008 to 2009?

22 A. Yes, it did.

23 Q. They went down considerably, didn't they?

24 A. Yes, they did.

1 Q. Is that contrary to what you just said?

2 A. Well, it also matched the decline in the
3 cost of steel. I think we've seen an overall decline
4 in commodity prices recently.

5 Q. Did you --

6 A. I would say a lowering of, a temporary
7 lowering of demand as well.

8 Q. Did you prepare the exhibit that was
9 presented to -- summarizing this wind contract that
10 was provided to KIUC in the responses to discovery?
11 It was the management summary.

12 MR. SATTERWHITE: Can you identify which
13 number --

14 A. The four- or five-page summary of terms?

15 Q. No. It was a -- let me ask you if you're
16 familiar with this. This is a -- KIUC first set,
17 item 10. This is confidential.

18 UNIDENTIFIED SPEAKER: Are we going to
19 have more confidential? Should we just stay off?

20 MR. KURTZ: I don't have a lot more for
21 this witness, but I would like to -- this is in the
22 record.

23 A. This looks like an exhibit that was
24 prepared by me, under my direction. Can I --

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MR. KURTZ: Could we wait till the light
is off.

CHAIRMAN ARMSTRONG: Yeah.

A. This is confidential. Highly.

(CONFIDENTIAL PORTION EXCERPTED.)

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CERTIFICATE

I do hereby certify that the foregoing is a transcript of the proceedings recorded by the Kentucky Public Service Commission, and transcribed by me to the best of my ability, in this matter on Tuesday, May 25, 2010.

Maria DiPaolo Jones, Registered
Diplomate Reporter and CRR and
Notary Public in and for the
State of Ohio.

My commission expires June 19, 2011.

(MDJ-3567)

- - -



EXHIBIT 2

(Order, Verified Petition of Indiana Michigan Power Company, an Indiana Corporation, for Approval Pursuant to Ind. Code 8—1-2-42(a), 8-1-8.8-11 and to the Extent Necessary 8-1-2.5-6 of a Renewable Energy Power Purchase Agreement with Fowler Ridge II Wind Farm, LLC, Including Timely Cost Recovery, Cause Number 43750 (Approved January 6, 2010))

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION


SPA
JLG


VERIFIED PETITION OF INDIANA)
MICHIGAN POWER COMPANY, AN)
INDIANA CORPORATION, FOR APPROVAL)
PURSUANT TO IND. CODE 8-1-2-42(a), 8-1-)
8.8-11 AND TO THE EXTENT NECESSARY 8-)
1-2.5-6 OF A RENEWABLE ENERGY POWER)
PURCHASE AGREEMENT WITH FOWLER)
RIDGE II WIND FARM, LLC, INCLUDING)
TIMELY COST RECOVERY.)

CAUSE NO. 43750

APPROVED: JAN 06 2010

BY THE COMMISSION:

David E. Ziegner, Commissioner
Angela Rapp Weber, Administrative Law Judge

On July 27, 2009, Indiana Michigan Power Company ("Petitioner" or "I&M") filed its Verified Petition with the Indiana Utility Regulatory Commission ("Commission") for approval of a Renewable Wind Energy Project Power Purchase Agreement between Fowler Ridge II Wind Farm, LLC ("FRWF-II") and I&M ("Wind PPA"), including timely recovery of the associated costs through rates. On July 27, 2009, I&M also filed its case-in-chief and its Motion for Protection of Confidential and Proprietary Information, through which protection from public disclosure was sought for certain Confidential Information. On September 1, 2009, the Presiding Officers issued a Docket Entry determining that the Confidential Information should be held as confidential by the Commission on a preliminary basis.

On August 20, 2009, Steel Dynamics, Inc. ("SDI"), a customer located in the electric service territory of I&M, filed its Petition to Intervene, which was granted by the Presiding Officers by Docket Entry dated October 2, 2009. In Accordance with the Prehearing Conference Order, on September 28, 2009 the Office of Utility Consumer Counselor ("OUCC") filed its case-in-chief. Also on September 28, 2009, SDI filed its case-in-chief with the Commission. On October 6, 2009, I&M prefiled its rebuttal testimony and its Motion for Protection of Confidential and Proprietary Information in the Rebuttal Exhibits and Workpapers. On October 9, 2009, the Presiding Officers issued a Docket Entry determining that the Confidential Information should be held as confidential by the Commission on a preliminary basis. On October 7, 2009, Petitioner filed its submission of proofs of publication of notice in accordance with Ind. Code § 8-1-2.5-6(d).

Pursuant to notice as required by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, a public evidentiary hearing in this Cause was held at 1:30 p.m. on October 15, 2009, in Judicial Room 222 of the National City Center, 101 W. Washington Street, Indianapolis, Indiana. At the evidentiary hearing, evidence was presented by I&M, OUCC, and SDI. No members of the general public were present at the hearing.

Based upon applicable law and evidence presented herein, the Commission now finds as follows:

1. **Notice and Jurisdiction.** Due, legal, and timely notice of the evidentiary hearing in this Cause was given and published by the Commission and by I&M as required by law. Proofs of publication for legal notices made by I&M were offered and admitted into evidence.

Petitioner is a "public utility" under Ind. Code § 8-1-2-1 and an "energy utility" providing "retail energy service" as defined in Ind. Code §§ 8-1-2.5-2 and -3, and is subject to the jurisdiction of this Commission in the manner and to the extent provided by the Public Service Commission Act, as amended, and other pertinent laws of the State of Indiana. Petitioner requests relief pursuant to Ind. Code §§ 8-1-8.8, 8-1-2-42(a) and 8-1-2.5-6. Accordingly, the Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

2. **Petitioner's Characteristics and Business.** I&M, a wholly owned subsidiary of American Electric Power Company, Inc. ("AEP"), is a corporation organized and existing under the laws of the State of Indiana, with its principal office at One Summit Square, Fort Wayne, Indiana. I&M is engaged in, among other things, rendering electric service in the States of Indiana and Michigan. In Indiana, I&M provides retail electric service to approximately 457,000 customers in the following counties: Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Hamilton, Henry, Howard, Huntington, Jay, LaPorte, Madison, Noble, Randolph, St. Joseph, Steuben, Tipton, Wabash, Wells and Whitley. I&M also provides retail service to approximately 129,000 customers in Michigan. In addition, I&M serves customers at wholesale in the States of Indiana and Michigan. I&M's electric system is an integrated and interconnected entity that is operated within Indiana and Michigan as a single utility. I&M is located in AEP's "East Zone" and is a member of the PJM Interconnection, L.L.C. ("PJM").

3. **The Wind PPA and Relief Requested.** I&M is seeking approval of a Wind PPA under which I&M will purchase approximately 50 MWs (nameplate) of electrical energy output from FRWF-II, a subsidiary of BP Wind Energy North America. The source of the energy will be a wind farm located in Benton County, Indiana with a portion located in Tippecanoe County, Indiana ("FRWF-II Project" or "Project"). I&M proposes to begin its purchases under the Wind PPA by February 15, 2010 and to continue thereafter over a twenty-year term. The purchase is a bundled product consisting of energy, capacity, and Renewable Energy Credits ("RECs").

I&M requests the Commission approve the Wind PPA and find the FRWF-II Project to be an "energy project" and a "renewable energy resource" as those terms are defined in Ind. Code §§ 8-1-8.8-2 and -10. As such, the Project would be eligible for certain incentives under the law, including, but not limited to, timely cost recovery. With regard to cost recovery, I&M requests approval of all purchased power and related costs incurred under the Wind PPA over the full twenty-year term of the Wind PPA. I&M asks that the Commission authorize I&M to recover via a rate adjustment mechanism the retail portion of those costs on an accrual basis in accordance with Ind. Code §§ 8-1-2-42(a) and 8-1-8.8-11 contemporaneously with the processing of I&M's semiannual fuel adjustment charge ("FAC") proceedings (or successor mechanism). Although I&M is proposing to have the cost recovery administered through its FAC proceedings, this cost recovery shall not be subject to the Section 42(d)(1) test or any other

benchmarks. Rather, I&M requests that the Commission make a definitive finding in this Cause that the Project, Wind PPA, and associated costs are reasonable and necessary so that I&M will be presently authorized to recover those costs over the full term of the Wind PPA.

4. **Statutory Framework.** Ind. Code § 8-1-8.8-2 concerns the development of alternative energy sources, including a renewable “energy project.” Ind. Code § 8-1-8.8-10 defines “renewable energy resource” to include energy from wind. Pursuant to Ind. Code § 8-1-8.8-11, an energy project is eligible for timely recovery of costs. This framework thus provides the basis for the requested Commission assurance of purchased power cost recovery through the full twenty-year term of the Wind PPA. Ind. Code § 8-1-2-42(a) also authorizes recovery of purchased electricity.

This is not a case of first impression. The Commission’s Orders in Cause Nos. 43097, 43259, 43328, 43393, and 43485 granted relief to Indiana electric utilities comparable to what I&M seeks here. In these cases, and pursuant to Ind. Code §§ 8-1-2-42(a) and 8-1-8.8, the Commission found that the wind purchased power agreements were a Renewable Energy Project and authorized the timely recovery of the cost incurred over the full contract term through a rate adjustment mechanism to be administered within the FAC proceedings (or successor mechanism). The Commission further found that the cost recover was not subject to the Ind. Code § 8-1-2-42(d)(1) test or any benchmarks.

5. **Summary of Petitioner’s Evidence.** The evidence in support of I&M’s Petition includes the testimony of: Marc E. Lewis, I&M Vice President of External Relations; Jay F. Godfrey, Managing Director—Renewable Energy for American Electric Power Service Corporation (“AEPSC”); and Jon R. MacLean, Manager of Production Resource Modeling in the Corporate Planning and Budgeting Department for AEPSC.

Mr. Lewis has extensive experience in the utility industry and is actively involved in legislative and regulatory matters. He discussed the potential for federal or state Greenhouse Gas (“GHG”) or carbon regulation and I&M’s interest in adding additional wind energy to its generation portfolio. Mr. Lewis explained I&M’s cost recovery proposal and described how the wind energy from FRWF-II will be transmitted to I&M. He also discussed the benefits produced by FRWF-II Wind PPA for I&M, its customers, and the State of Indiana, including, but not limited to, the reduction of I&M’s variable costs, improvement of I&M’s settlement position in the AEP System Interconnection Agreement, and increase in the potential for system sales. Among other things, Mr. Lewis explained that adding a modest amount of wind energy to the portfolio allows I&M to further diversify its generation portfolio, meet the demand for increase use of renewable energy, and provides other benefits with a relatively small impact on customers’ overall electricity bills.

Mr. Godfrey has over fourteen years of commercial and financial management experience in the wind energy industry. His experience includes evaluating wind project investment, negotiating wind energy power purchase and sales agreements, wind system operations and maintenance agreements, real estate agreements related to wind projects, wind turbine purchase agreements, and project loan documents. He is a past member of the Board of Directors of the American Wind Energy Association and currently serves as Advisor to that Board.

Mr. Godfrey discussed the Wind PPA, the Request for Proposal ("RFP"), and AEP's continued experience with wind energy projects and technology and the benefits associated with RECs. Mr. Godfrey updated the Commission regarding AEP's experience in the development, construction, ownership, and operation of wind energy projects since his presentation of testimony in Cause No. 43328. He explained that between September 2007 and January 2008, I&M contracted for three 200-foot meteorological test towers to be erected in Jay, Randolph, and Wayne Counties in Indiana to begin collection of wind data to determine the feasibility of building wind turbines in the area. He explained that this activity is part of the East Central Indiana Wind Farm effort that I&M announced in 2006.

Mr. Godfrey stated that since Commission approved the FRWF PPA in Cause No. 43328, several I&M affiliates have entered into a total of eight Wind PPAs, totaling 527.9 MW. All of these Wind PPAs were executed as a result of a competitive RFP process which sought proposals from a variety of renewable technologies, including solar, wind, hydroelectric, geothermal, biologically derived methane gas, and certain biomass energy projects. Mr. Godfrey explained that including the FRWF-II Wind PPA, AEP now has a total of 1296.1 MW of long-term renewable wind energy resources under contract. In Mr. Godfrey's view, the acquisition of these additional renewable energy resources underscores the ongoing efforts to diversify fuel mix and to support expanded development of renewable energy resources while meeting customers' needs and reducing environmental impact.

Mr. Godfrey provided the Commission with the background on I&M's negotiation of the Wind PPA. He explained that the Wind PPA was the result of a competitive RFP process initiated by two affiliates of I&M and added that AEP's substantial wind experience was beneficial in the negotiation of the Wind PPA. Mr. Godfrey summarized the terms of the Wind PPA and explained that the FRWF-II Wind PPA has a wind weighted average around-the-clock contract price and that this price will escalate beginning in 2012 at 2.25% per year for the term of the contract. In his opinion, the FRWF-II Wind PPA represents a prudent, valuable, and reasonably priced renewable energy generation resource for I&M.

Mr. Godfrey explained that the twenty-year Wind PPA allows I&M to secure the lowest-available prices for reliable renewable resources and to ensure that this energy will be economically accessible to its native load customers in the coming years. He explained that as various states continue to implement Renewable Portfolio Standards ("RPS") and goals and the federal government moves toward renewable standards and carbon limits, the availability of renewable energy will likely be constrained causing upward pressure on pricing. He stated that although these same standards and goals will also spur growth in the number of renewable energy providers throughout the PJM service territory, there is no guarantee that the supply of renewable energy resources will remain abreast of the demand. Mr. Godfrey added that in particular, access to available transmission will increasingly impact cost and availability of these resources.

Mr. Godfrey testified that the twenty-year Wind PPA also provides a direct benefit to the consumer. He explained that the twenty-year agreement, which is also the expected life of the technology, allows renewable energy resource providers to procure long-term financing, thereby amortizing the cost of their projects over a longer period. Such financing has the effect of

reducing the upfront costs and allows for a more economically levelized price over the term of the contract.

Mr. Godfrey also described the benefit of the federal Production Tax Credit to the FRWF. He explained that the renewable energy production tax credit ("PTC") is the primary federal incentive for wind energy and has been essential to the industry's growth. He explained that Congress has extended the PTC through December 31, 2012. Mr. Godfrey added that Congress also provided a subsidy as an alternative to the PTC in the form of either an Investment Tax Credit ("ITC") or a grant-in-lieu of the ITC. He stated that these federal subsidies, which go to the at-risk owner of the facility, help to buy-down the purchase price that I&M or any purchaser would pay for the renewable product.

Mr. Godfrey also addressed the other incentives related to I&M's purchase from the FRWF-II. He explained that currently, wind energy is generally acknowledged as the most economical new source of renewable energy in the United States. He stated that as with all forms of new electric generation, wind generation has recently experienced a significant increase in the delivered price of energy. He explained that as the price of wind generated energy continues to increase, it is to the advantage of I&M and its customers to obtain the lowest available cost wind energy to hedge against future price increases and regulatory requirements. With regard to RECs, Mr. Godfrey explained that I&M will receive all current and future attributes, including the associated RECs. He stated that the RECs will be tracked through the PJM Generation Attribute Tracking System, which is a database that tracks the ownership of RECs and generation attributes that result from the generation of electricity as they are traded or used to meet government standards.

Mr. MacLean is responsible for supervising planning studies in the area of production costing for AEP's eastern and western electric utility operating companies. These studies include fuel expense projections, marginal cost studies, and other analyses that involved the use of electric energy costs. Mr. MacLean addressed the cost impact of the Wind PPA on I&M customers. He explained that the estimate of the annual net cost, which retail customers would incur due the Wind PPA, considered the cost of the wind energy, the net of the relative changes in I&M's fuel cost (including net pool energy credit/cost), and the primary capacity settlements under the AEP System Interconnection Agreement. He testified that on a cost per kWh basis, the estimated incremental net cost to I&M's Indiana customers for an annual supply of renewable wind energy is projected to be less than 0.023 cents per kWh, with the average cost over the period of only 0.020 cents per kWh.

6. Summary of OUCC's Evidence. The OUCC presented the testimony of Ronald L. Keen, a Senior Analyst within the Resource Planning, Emerging Technologies, and Telecommunications Division; Greg A. Foster, a Utility Analyst in the Electric Division of the OUCC's Energy Group; and Anthony A. Alvarez, a Utility Analyst II within the Resource, Planning, Emerging Technologies, and Telecommunications Division. Mr. Keen described the Petitioner and FRWF, addressed the request for approval of the Wind PPA, and discussed RPS, RECs and legislative initiatives at the state and federal level. Among other things, Mr. Keen noted that the Wind PPA was approved by the Michigan Public Service Commission on September 15, 2009. Mr. Keen explained that twenty-six states have RPS, while four states have Alternative Energy Portfolio Standards and five states have a Renewable or Alternative Energy

Goal. Only thirteen states have not yet adopted a renewable or alternative energy portfolio or standard at this time. Mr. Keen explained that in Indiana, as early as 2006, a bill was introduced to enact an RPS standard for the state. He said the issue was held over for committee study and RSP legislation was introduced in each subsequent legislative session. Mr. Keen testified there are a number of legislative proposals before Congress including H.B. 2452, which passed the House of Representatives in June 2009 and is now under consideration in the Senate. Mr. Keen recommended the Commission approve the Wind PPA, as well as the associated cost recovery.

Mr. Foster provided the OUCC's analysis of I&M's request for approval of the Wind PPA, specifically to support the choice of wind power as a reasonable component of a diversified portfolio. Mr. Foster explained that a portfolio is a reasonable mix or collection and that by owning several types of generating assets, certain types of risk can be reduced. In his view, portfolio management, if used prudently, is a valuable tool to reduce risk. He testified that while Indiana does not currently have a RPS, the risk of state or federal RPS or carbon legislation being adopted is very real. Mr. Foster noted that the Commission has previously recognized that a wind PPA represents a reasonable addition to and diversification of capacity and energy portfolios, which may serve to mitigate the volatility of prices from other energy sources as such renewable energy opportunities are available independent of fuel price volatility and increased environmental emissions, constraints, and costs. Mr. Foster concluded that I&M's petition for approval of the Wind PPA is a reasonable step toward diversification of its generation portfolio and recommended Commission approval of the Wind PPA and associated cost recovery.

Mr. Alvarez discussed transmission issues and the findings contained in the PJM Generator Interconnection Impact Study Reports. Mr. Alvarez testified that while the generator source for this Wind PPA is located in the Midwest ISO footprint, the I&M load sink is located in PJM's footprint, cost is not attributed to having a different ISO/RTO for the source and the sink. There are neither toll charges nor through and out charges added to the total cost involved. Mr. Alvarez also testified that there is no significant LMP differential in the source and sink. He explained that this is due to the relatively close proximity of the source and sink and the robustness of the transmission lines in Indiana and the absence of significant congestion issues. Mr. Alvarez testified that there were no significant network impact issues, no new system reinforcement requirements and no potential congestion issues raised in the PJM Generator Impact Study Reports.

7. Summary of Intervenor's Evidence. Intervenor SDI presented the testimony of Dennis W. Goins, Ph.D. of the Potomac Management Group, an economics and management consulting firm. Dr. Goins noted that I&M is asking the Commission to approve the recovery of the cost of the FRWF-II purchases through its FAC during the twenty-year contract term. He also noted that I&M retains 100% of Indiana jurisdictional off-system sales margins up to \$37.5 million, and shares all sales margins in excess of \$37.5 million equally with retail customers.

Dr. Goins testified that I&M does not need the Wind PPA to meet new GHG regulations since such new regulations do not exist. Dr. Goins stated that the benefits of the Wind PPA are generally speculative and if they occur, may provide little direct benefit to the ratepayers. He explained that when and how the Indiana legislature mandates an RPS (if at all) will determine whether the Wind PPA is a reasonable and prudent response by I&M. In his view, wind purchases now are merely a form of insurance against the potential costs of GHG regulations that

have not even been adopted—much less implemented and ratepayers should not be responsible for the entire cost. Dr. Goins recommended the Commission reject I&M's proposal because the Wind PPA cost recovery does not meet the requirement in Ind. Code § 8-1-2-42(d)(1) to acquire fuel and general and/or purchase power to serve retail electric customers at the lowest fuel cost reasonably possible. If the Commission decides to allow I&M to recover the total cost of the FRWF-II purchases, Dr. Goins recommended the Commission modify the off-system sales sharing mechanism approved by the Commission in Cause No. 43306 to increase the benefits provided to I&M's customers.

8. Rebuttal Evidence. I&M witnesses Lewis, Godfrey, and MacLean presented rebuttal testimony. Mr. Lewis refuted SDI witness Goins' claims regarding I&M's proposal. Mr. Lewis explained that the request in this Cause is pending pursuant to authority granted to the Commission in Ind. Code § 8-1-8.8-11, Ind. Code § 8-1-2-42(a), and to the extent necessary Ind. Code § 8-1-2.5-6. These statutes do not concern the FAC, which is authorized by Ind. Code § 8-1-2-42(d). He testified that because the FAC is subject to a different statute it is not accurate to state that I&M seeks relief in this Cause pursuant to Ind. Code § 8-1-2-42(d). Mr. Lewis explained that it appears that SDI witness Goins may be confused by I&M's request that the process the Commission currently uses for the administration of rate adjustment mechanisms for wind purchased power be utilized here.

Mr. Lewis explained that even if this were not the case, SDI witness Goins overlooks the reasonableness standard incorporated twice in the statute upon which he mistakenly relies. Mr. Lewis testified that the reasonableness standard and Commission practice recognize that the absolute lowest cost is not required. Rather, the (d)(1) test permits use of a diversified approach so that the provision of low cost electricity may be achieved over a range of circumstances. He explained that like hedging and other procurement activities, the purchase of renewable energy is part of I&M's ongoing effort to make every reasonable effort to continue to acquire fuel and generate power so as to provide electricity to its retail customers at the lowest fuel cost reasonably possible.

Mr. Lewis explained that in Ind. Code § 8-1-8.8-1, the General Assembly declared that the development of a robust and diverse portfolio of energy production or generation capacity, including the use of renewable energy is in the public interest and important to Indiana's energy security and reliability. In order to incent this development, the General Assembly expressly authorized the Commission to grant the timely cost recovery I&M seeks in this case if the project is reasonable and necessary. Ind. Code § 8-1-8.8-11. He concluded that, as shown by I&M's direct testimony and further addressed both below and in the rebuttal testimony of I&M witnesses Godfrey and MacLean, the FRWF-II Wind PPA which is the subject of I&M's Petition in this case is reasonable and necessary and should be approved.

Mr. Lewis disagreed with Dr. Goins contention that the FRWF-II Wind PPA benefits are speculative and provide little direct benefit to customers. He explained that in analogous cases, the Commission has recognized that Wind PPAs produce real benefits for the electric utility, its customers, and the State of Indiana. He explained that the benefits from the FRWF-II Wind PPA before the Commission are no less real or material than those derived from the wind PPAs previously approved by the Commission.

Mr. Lewis explained that SDI witness Goins' incorrectly implied that I&M receives the benefit of 100% of the first \$37.5 million in off-system sales margins. Mr. Lewis clarified that I&M's customers receive this benefit through a reduction of their basic rates regardless whether I&M even earns \$37.5 million in off-system sales margins. He explained that the Settlement Agreement approved in Cause No. 43306 provides only for sharing above the \$37.5 million reflected as a credit to the revenue requirement. He testified that I&M customers are protected from the downside loss but permitted to share in the upside benefit. This ensures that I&M's risk of participating in the wholesale electricity market remains with I&M and is not passed to customers.

Mr. Lewis also showed that the level of off-system sales margins used as a credit to reduce I&M's retail customer rates is substantially greater than the minimum credit recognized in previous Indiana rate cases. He testified that while off-system sales margins have recently decreased from levels reflected in the basic rate case, I&M's customers will continue to receive a significant benefit from these wholesale market activities. In his view, Dr. Goins' contention overlooks the significant customer benefits and safeguards already provided in the Settlement Agreement and Order in Cause No. 43306, including the fact that customer rates are at least \$37.5 million lower because of the risk I&M has undertaken in the wholesale market. Mr. Lewis stated that to the extent the FRWF-II Wind PPA results in off-system sales margins above the level already credited in basic rates, customers will share equally with I&M in this return. While the credit in the off-system sales margins sharing mechanism is adjusted annually, I&M's customers benefit more from I&M's off-system sales activities than customers of other Indiana utilities. He said it is unreasonable for I&M's efforts to secure renewable energy for the benefit of its customers to be penalized while other Indiana utilities are permitted the full and timely cost recovery afforded by the governing statute.

Mr. Lewis disagreed with Dr. Goins' contentions that the FRWF-II Wind PPA is merely an insurance policy against the potential costs of GHG regulations that have not yet been adopted and that it is neither fair nor reasonable to require ratepayers to bear all the cost of the Wind PPA. Mr. Lewis testified that protection against the potential costs of GHG regulations is not the only benefit of the Wind PPA. He stated that SDI witness Goins' contention that the Commission should disallow some or all of the costs of I&M's Wind PPA contravenes Indiana policy in Ind. Code § 8-1-8.8-11, which provides that the Commission shall encourage the use of renewable and other clean energy projects by creating financial incentives, including timely cost recovery. This statute also authorizes the Commission to approve other incentives, including an additional return to shareholders and other financial incentives for projects to develop alternative energy sources, including renewable energy projects. Mr. Lewis stated that while I&M has not sought these additional financial incentives in this proceeding, the availability of these incentives demonstrates that shareholders should not be penalized for pursuing the use of renewable energy.

Mr. Lewis also responded to Dr. Goins' contention that the Wind PPA might unreasonably benefit shareholders. Mr. Lewis explained that this contention ignores the earnings test in Ind. Code § 8-1-2-42(d)(3), which protects customers against the possibility that an electric utility's net operating income might exceed its authorized level. He added that this is particularly true in I&M's case because its sum of differentials was reset to zero in Cause No. 43231. Furthermore, pursuant to the Order in Cause No. 43306 I&M is required to file a new rate case not later than five years from March 4, 2009. He stated that because a rate case

provides the Commission, the OUCC, and other interested parties an opportunity to review a utility's return, this filing requirement also protects customers from the possibility that I&M's net operating income might exceed its authorized level due to the FRWF-II Wind PPA.

Mr. Lewis also disagreed with Dr. Goins suggestion that the Commission cannot determine whether I&M's FRWF-II Wind PPA is reasonable and necessary until such as time as the Indiana General Assembly determines whether it will mandate an RPS. He explained that neither the legislature nor the Commission has conditioned approval under this statute on the existence of an Indiana RPS mandate. To the contrary, in its 2009 Report to the Regulatory Flexibility Committee of the Indiana General Assembly (at 48), the Commission stated that "[t]he passage of either a state or federal renewable portfolio standard (RPS) or green house gas emission regulations (e.g., carbon emissions regulation) would likely make wind resources even more desirable than they are now. . . ." In other words, a determination of whether a Wind PPA is reasonable and necessary is not dependent on the existence of an Indiana RPS mandate. He testified that witness Goins' contention also fails to recognize that the resource planning process necessarily requires reasonable predictions about the future, including estimates of future demand for electricity, fuel costs, generation costs, and environmental regulation costs. Mr. Lewis summarized state and federal legislative initiatives and explained that locking in a long-term price now permits I&M to avoid the cost increases associated with increased demand, increased turbine costs, and the cost increases that are expected to occur once the federal tax credits expire.

Mr. Godfrey showed that I&M has obtained the lowest reasonable cost renewable resources for its native load customers, and explained the benefits of being an active participant in the renewable energy resource market at this time. Mr. Godfrey explained that Dr. Goins' analysis was flawed because the price he quotes as I&M's average cost for the Wind PPA in 2010 is a bundled price. The bundled price for this wind purchase is composed of charges for energy, as well as capacity, and the associated REC value; it does not represent an energy-only price. He explained that conversely, the average cost of coal-fired general and other non-wind off-system sales purchases referenced by witness Goins include only the variable costs of energy and, therefore, is an inappropriate comparison. Mr. Godfrey explained that to create an accurate price comparison, the total cost of one generation resource must be compared to the total cost of another contemplating the future impacts of renewable portfolio standards and carbon legislation.

Mr. Godfrey presented the results of the 2007 and 2008 renewable energy RFPs that AEPSC issued in PJM on behalf of AEP's operating companies. This showed that AEPSC was able to secure the lowest reasonable cost for the bundled renewable product. Mr. Godfrey testified that as states throughout the United States continue to implement RPS and goals, the availability of renewable energy may be constrained in the coming years. Mr. Godfrey reiterated that the current federal subsidies help to buy-down the purchase price that I&M would pay for the renewable energy product. He explained that by acting now and being able to take advantage of the federal subsidies, I&M (and ultimately) customers will save approximately \$30 million over the life of the FRWF-II Wind PPA. He stated that if Congress does not extend the ITC beyond 2010 or the PTC beyond 2012, I&M (and ultimately customers) will end up paying more to acquire additional megawatt-hours of renewable energy as a part of any federal or state mandate. He opined that obtaining a prudent amount of renewable energy while the PTC/ITC is

in place mitigates the potential risks associated with having to acquire renewable energy in constrained markets and without the benefit of such a credit or subsidy.

Mr. MacLean refuted Dr. Goins' statement that the average cost of I&M's FRWF-II purchases in 2010 will be more than three times the average cost of its coal-fired generation and more than 2.5 times the cost of other non-wind off-system purchases. He explained that the Wind PPA is a twenty-year bundled product whereas the fossil and purchase costs used by witness Goins are single-year (2010) values from a Net Energy Cost report that contains only fuel costs and only energy costs. Thus, witness Goins' took only a short-term view of the Wind PPA versus other alternatives. Mr. MacLean explained that since the Wind PPA is a new twenty-year renewable resource, a valid comparison should be based on a multi-year, bundled, energy + capacity + RECs price for other new renewable or new conventional resources to put it on an equivalent basis. As illustrated by Exhibit JRM-R1, this comparison shows that the cost for the Wind PPA is lower than comparable costs for a new build CT or CC over the entire range of operation. He concluded that when all appropriate costs are included, the FRWF-II PPA is less costly than new gas-fired facilities.

9. Commission Discussion and Findings. Substantial evidence in the record of this proceeding supports a finding that the relief requested herein should be approved. The Commission finds that the Renewable Energy Project will not only increase the availability of emissions-free renewable energy sources in Indiana, but it will also demonstrate the vitality of the market for commercial wind generation. The evidence indicates the Wind PPA produces real benefits for I&M, its customers, and the State of Indiana. The Wind PPA also improves Petitioner's capacity settlement position in the AEP Pool and increases the potential for off-system sales. In addition, the Wind PPA diversifies I&M's generation portfolio, supports a "home grown" renewable resource, encourages economic development, and meets the increasing interest of customers in the use of more renewable resources. The evidence also indicates that the terms of the Wind PPA are reasonable and full cost recovery of the Wind PPA through the full twenty-year term of the contract is reasonable and necessary. The Commission finds that the approval we grant herein is in the public interest and designed to promote efficiency and reliability in the provision of retail electric service. This Commission's specific findings are as follows:

(a) **Governing Statutes.** Witness Goins contended that the Commission should not authorize I&M to recover the cost of the FRWF-II purchases through I&M's FAC because such recovery is inconsistent with I&M's obligation under Ind. Code § 8-1-2-42(d)(1) to acquire fuel and generate and/or purchase power to serve its retail electric customers at the lowest fuel cost reasonably possible. SDI's position must be rejected. I&M's Petition is not pending under the FAC statute upon which SDI witness Goins relies. Rather, I&M seeks the Commission to exercise authority granted to it by the Legislature in Ind. Code § 8-1-8.8-11, Ind. Code § 8-1-2-42(a), and to the extent necessary, Ind. Code § 8-1-2.5-6.

For administrative efficiency and simplicity, the Commission has previously authorized the administration of the rate adjustment mechanism which I&M seeks here. In Cause Nos. 43328, 43485, 43097, 43259, and 43393, the Commission approved proposals for wind PPA rate adjustment mechanisms to be administered through the FAC proceedings authorized by Ind. Code § 8-1-2-42(a) and not be subject to the Ind. Code § 8-1-2-42(d) test or any benchmarks.

These statutes do not impose a “least cost” requirement. Even if this were not the case, SDI witness Goins overlooks the reasonableness standard incorporated twice in the statute upon which he mistakenly relies. Ind. Code § 8-1-2-42(d)(1) provides that with regard to “the fuel cost charge” the Commission must find that the utility has made every “reasonable” effort to acquire fuel or generate or purchase power or both so as to provide electricity to its retail customers at the lowest fuel cost “reasonably possible.” The reasonableness standard and Commission practice recognize that the absolute lowest cost is not required. Rather, the (d)(1) test permits use of a diversified approach so that the provision of low cost electricity may be achieved over a range of circumstances.

For example, utilities acquire fuel pursuant to short-term and long-term contracts and also make purchases on the spot market. At any point in time, the cost of fuel on the spot market may be greater or less than the cost of fuel under a short-term or long-term contract. Yet, over the longer term, the diversified purchasing approach enables the utility to serve retail customers at the lowest fuel cost reasonably possible. In other words, it is reasonable to procure fuel through a diversified purchasing strategy, just as it is reasonable to generate or purchase electricity through a reasonable integrated resource plan. As noted by Mr. Lewis, SDI has encouraged I&M to engage in hedging activities. Like hedging and other procurement activities, the purchase of renewable energy is part of I&M’s ongoing effort to make every reasonable effort to continue to acquire fuel and generate power so as to provide electricity to its retail customers at the lowest fuel cost reasonably possible.

Moreover, as the Commission found in Cause No. 43097, once the Commission finds that a Wind PPA and its costs are reasonable and should be recovered through the full term of the contract in accordance with Ind. Code § 8-1-2-42(a), it is “incongruent to have the Wind PPA subjected to a quarterly FAC review statutorily designed to determine whether or not the utility has made every reasonable effort to obtain fuel or purchase power at the lowest cost reasonably possible. That finding of reasonableness is already made in [the] Order for the Wind PPA for the term of the contract.” *PSI Energy, Inc.*, Cause No. 43097 at 18. Therefore, the Commission finds I&M’s proposal for the administration of the wind purchase power agreement rate adjustment mechanism is consistent with the governing statutes, Commission practice and public policy. Accordingly, we further find that SDI’s objection should be rejected.

(b) Renewable Energy Benefits. SDI witness Goins contended that the benefits the FRWF-II PPA may produce are speculative and provide little direct benefit to customers. In analogous cases, the Commission has recognized that Wind PPAs produce “real benefits for Petitioner, its customers, and the state of Indiana.” See *e.g.*, *Southern Indiana Gas and Electric Co.*, 8 (*Ind. Util. Reg. Comm’n*, Cause No. 43635, June 17, 2009) (approving 50 MW purchase of wind power from FRWF-II); *Indiana Mich. Power Co.*, 16 (*Ind. Util. Reg. Comm’n*, Cause No. 43328, Nov. 28, 2007) (approving 100 MW purchase of wind power from FRWF-I); and *Indianapolis Power & Light Co.*, 10 (*Ind. Util. Reg. Comm’n*, Cause No. 43485, Oct. 1, 2008) (approving 100 MW purchase of wind power from Hoosier Wind Project, LLC). Similarly, *Southern Indiana Gas and Electric Co.*, 15 (*Ind. Util. Reg. Comm’n*, Cause, No. 43259, Dec. 15, 2007), the Commission found that the proposed wind PPA “diversifies [the] supply portfolio; it provides environmental benefits; it encourages the proliferation of more renewable Hoosier Homegrown Energy; it will improve Indiana’s economy; and it hedges against new environmental emissions regulations and potential fuel cost volatility.” The Commission further

found that “[t]hese attributes provide direct benefits to . . . customers and Indiana stakeholders.”
Id.

The benefits from the FRWF-II Wind PPA before the Commission in this proceeding are no less real or material than those derived from the wind PPAs previously approved by the Commission. Substantial evidence enumerates the numerous benefits available from environmentally friendly renewable energy such as that made available from the FRWF-II Renewable Energy Project. Wind generation avoids fuel and transportation costs and will avoid potential future carbon emission taxes associated with carbon fuel generation. The terms of the FRWF-II Wind PPA were reached through arms-length negotiation, compare favorably with market conditions, and are reasonable. The FRWF-II Wind PPA represents a reasonable addition to and diversification of I&M’s integrated resource portfolio that may serve to mitigate the volatility of prices from other energy sources. It is a real benefit to secure generation from a diverse pool of sources. The FRWF-II Wind PPA also allows I&M to take advantage of the real government incentives that lower the cost of securing wind-generated power, which is important with the increasing likelihood of federal renewable energy legislation and the increasing number of state renewable energy mandates. Thus, it is reasonable for Petitioner to begin to add to its renewable energy portfolio now as part of its resource planning process. It is a real benefit to I&M, its customers, and the State of Indiana to secure long-term prices of renewable generation.

The FRWF-II Renewable Energy Project will not only produce emission free electricity but will help further promote awareness in I&M’s customers and other Indiana citizens on the advancement and availability of renewable energy technology. This may increase consumer interest in protecting the environment by supporting renewable, environmentally friendly energy sources. In addition to the environmental benefits from the emission free generation, Indiana also benefits through the development of another “home grown” energy resource. As was also the case with similar projects previously approved by this Commission, the FRWF-II Project offers the economic benefits of local Indiana business investment, revenue generation, and job creation.

Further, I&M and its customers will benefit from RECs received as a result of the FRWF-II Project because RECs can be used to meet future RPS compliance obligations. The Commission agrees with Petitioner and the OUCC that there is a benefit from proactively acquiring renewable energy resources now, while federal subsidies for renewables can help “buy-down” the cost of purchased renewable energy to I&M, rather than waiting until a federal or state RPS or carbon requirement is in effect and prices and demand from other utilities for renewable energy and RECs increase. Accordingly, we reject witness Goins’ contentions.

SDI witness Goins also contended the FRWF-II Wind PPA is merely an insurance policy against the potential costs of GHG regulations that have not yet been adopted and therefore it is neither fair nor reasonable to require ratepayers to bear all the cost of the Wind PPA. As just discussed, there are many other benefits from this Wind PPA. Furthermore, SDI witness Goins’ contention that the Commission should disallow some or all of the costs of I&M’s Wind PPA contravenes Indiana policy. As noted above, Ind. Code § 8-1-8.8-11 provides that the Commission shall encourage the use of renewable and other clean energy projects by creating financial incentives, including timely cost recovery. This statute also authorizes the Commission to approve other incentives, including an additional return to shareholders and other financial

incentives for projects to develop alternative energy sources, including renewable energy projects. While I&M has not sought these additional financial incentives in this proceeding, the availability of these incentives demonstrates that shareholders should not be penalized for pursuing the use of renewable energy.

Witness Goins' suggestion that I&M's shareholder may somehow derive an unreasonable benefit from our approval of the FRWF-II PPA ignores the earnings test in Ind. Code § 8-1-2-42(d)(3), which protects customers against the possibility that an electric utility's net operating income might exceed its authorized level. This is particularly true in I&M's case because its sum of differentials was reset to zero in Cause No. 43231. Furthermore, pursuant to the Order in Cause No. 43306 I&M is required to file a new rate case not later than five years from March 4, 2009. Because a rate case provides the Commission, the OUCC and other interested parties an opportunity to review a utility's return, this filing requirement also protects customers from the possibility that I&M's net operating income might exceed its authorized level due to the FRWF-II Wind PPA. Therefore, SDI witness Goins' proposal that the Commission impose special restrictions or otherwise condition I&M's timely cost recovery should be rejected.

(c) Reasonableness of the Wind PPA Terms. The record establishes that the Wind PPA resulted from arms-length negotiations. I&M will only pay for the energy it receives at a fixed price per MWh with fixed annual adjustments. I&M will own all of the environmental credits, including RECs, from the Wind PPA. FRWF retains the responsibility for construction, ownership, operation, and maintenance of the plant. Like the other wind power purchase agreements approved by this Commission, the FRWF-II Project represents a reasonable addition and diversification of I&M's capacity portfolio, which may serve to mitigate the volatility of prices from other energy sources. This renewable energy opportunity will be available independent of fuel price volatility or increased environmental emissions, restraints, and costs. Substantial evidence of record demonstrates that I&M's cost per MW of energy under the Wind PPA is lower than other proposals received in response to the 2007 and 2008 RFPs and other renewable energy alternatives available to Petitioner. As shown by witness MacLean, the FRWF-II PPA is also less costly than new gas-fired facilities. The Commission finds that the pricing and other terms of the FRWF-II Project are reasonable and in the public interest.

(d) Wind PPA Cost Recovery. The Commission finds that Petitioner shall be authorized to recover all of the purchased power and other costs related to the Wind PPA over its full twenty-year term as proposed by Petitioner and the prudence of the Wind PPA and associated costs shall not be subject to any future review. We find that I&M should be authorized to recover via a rate adjustment mechanism the retail portion of the costs of the FRWF-II Wind PPA on an accrual basis in accordance with Ind. Code §§ 8-1-2-42(a) and 8-1-8.8-11 contemporaneously with the processing of I&M's FAC proceedings (or successor mechanism). While the cost recovery of the Wind PPA should be administered through I&M's FAC proceedings (or successor mechanism), such cost recovery shall not be subject to the Section 42(d)(1) test or any FAC or purchased power benchmarks, economic dispatch requirements, or least cost requirements. This relief is consistent with Ind. Code §§ 8-1-2-42(a) and 8-1-8.8-11.

SDI witness Goins' suggested that the Commission cannot determine whether I&M's FRWF-II Wind PPA is reasonable and necessary until such as time as the Indiana General

Assembly determines whether it will mandate an RPS. This contention should be rejected. First, as discussed above, the Indiana General Assembly has already declared that the state policy shall be to encourage the investment in renewable energy by providing timely cost recovery. Ind. Code § 8-1-8.8 was enacted even though Indiana has not mandated a RPS. Neither the Legislature nor the Commission has conditioned approval under this statute on the existence of an Indiana RPS mandate. To the contrary, in page forty-eight its 2009 Report to the Regulatory Flexibility Committee of the Indiana General Assembly, the Commission stated that “[t]he passage of either a state or federal renewable portfolio standard (RPS) or green house gas emission regulations (e.g., carbon emissions regulation) would likely make wind resources even more desirable than they are now.” A determination of whether a Wind PPA is reasonable and necessary is not dependent on the existence of an Indiana RPS mandate.

Witness Goins’ contention also fails to recognize that the resource planning process necessarily requires reasonable predictions about the future, including estimates of future demand for electricity, fuel costs, generation costs, and environmental regulation costs. As discussed above, witness Goins’ suggestion that it is unreasonable or unnecessary for I&M to respond to the potential for GHG regulation should be rejected.

A review of Ind. Code § 8-1-8.8 *et seq.*, demonstrates and we find that the FRWF-II Project satisfies the statutory definition of “energy project” defined in Ind. Code § 8-1-8.8-2 in that the project will develop alternative energy sources, including renewable energy. We further find that the project also qualifies as a “renewable energy resource” as defined by Ind. Code § 8-1-8.8-10. Ind. Code § 8-1-8.8-11 provides that renewable energy projects, such as I&M’s Wind PPA with FRWF-II, are eligible for incentives, including timely recovery of costs and financial incentives. Accordingly, the Commission finds that Petitioner’s cost recovery proposal should be approved.

(e) Off-System Sales Sharing. SDI witness Goins contends that because I&M receives 100% of the first \$37.5 million in off-system sales margins, the Commission should implement a modified off-system sales sharing arrangement to increase customer benefits if the Commission decides to allow I&M to timely recover the cost of the FRWF-II Wind PPA purchases. We find this proposal should be rejected. First, I&M’s customers receive the benefit of 100% of the first \$37.5 million in off-system sales margins through a reduction of their basic rates. Pursuant to the Order approving the Settlement Agreement in Cause No. 43306 retail jurisdictional off-system sales margins above \$37.5 million are shared equally between I&M’s customers and the Company and is reflected as a credit to the revenue requirement. I&M customers are protected from the downside loss but permitted to share in the upside benefit, which ensures that I&M’s risk of participating in the wholesale electricity market is not passed to customers.

Finally, Ind. Code § 8-1-8.8-11 provides that the Commission shall encourage the use of renewable and other clean energy projects by creating financial incentives, including timely cost recovery. This statute also authorizes the Commission to approve other incentives, including an additional return to shareholders and other financial incentives for projects to develop alternative energy sources, including renewable energy projects. While I&M has not sought these additional financial incentives in this proceeding, the availability of these incentives demonstrates that shareholders should not be penalized for pursuing the use of renewable energy.

10. **Confidential Information.** On September 1 and October 9, 2009, the Presiding Officers made a preliminary finding that certain designated information marked "Confidential Information" as requested in Petitioner's Motions for Protection and Nondisclosure of Confidential and Proprietary Information should be treated as confidential in accordance with Ind. Code § 5-14-3-4 and that confidential procedures should be followed with respect to this Confidential Information. Upon review of the Confidential Information submitted pursuant to the Presiding Officers' preliminary determination, the Commission confirms this prior preliminary finding. The Commission also concludes that the information for which Petitioner sought confidential treatment contains confidential, proprietary, competitively sensitive trade secret information that has economic value to Petitioner and to FRWF-II from neither being known to, nor ascertainable by, its competitors and other persons who could obtain economic value from the knowledge and the use of such information; that the public disclosure of such information would have a substantial detrimental affect on Petitioner and FRWF-II; and that the information is subject to efforts of Petitioner that are reasonable under the circumstances to maintain its secrecy. Accordingly, the Confidential Information submitted to the Commission, including that contained in Petitioner's Exhibit JFG-1 (Protected), Petitioner's Exhibit JFG-2 (Protected), Petitioner's Exhibit JRM-1 (Protected), Petitioner's Exhibit JFG-R1 (Confidential), Petitioner's Exhibit JRM-R1(Confidential) and the confidential workpapers supporting this exhibit are exempt from the public access requirements of Ind. Code §§ 5-14-3-3, 8-1-2-29, and 24-2-3-1 and shall continue to be held as confidential by the Commission.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. I&M's Wind PPA with the Fowler Ridge II Wind Farm, or its assigns or successors, shall be and is hereby authorized as a Renewable Energy Project.
2. The Renewable Energy Purchase Agreement between Petitioner and Fowler Ridge Wind Farm II shall be and hereby is approved in its entirety and without change.
3. I&M is hereby authorized to recover the costs incurred under the Wind PPA over its full twenty-year term pursuant to Ind. Code §§ 8-1-2-42(a) and 8-1-8.8, to be administered within I&M's FAC proceedings (or successor mechanism). This recovery shall not be subject to the Ind. Code § 8-1-2-42(d)(1) test or any benchmark.
4. I&M shall be and hereby is granted the accounting authority necessary to implement the cost recovery provided by this Order.
5. If I&M chooses to monetize RECs associated with the wind purchase, I&M shall use the revenues to first offset the cost of the Wind PPA and next to credit the jurisdictional ratepayers through the FAC proceedings (or successor mechanism).
6. For a period of five (5) years from the commencement of the Fowler Ridge II Wind Farm Wind PPA, I&M shall annually submit to the Commission and the OUCC a confidential report showing the actual wind energy delivered on an hourly basis by the Project to I&M.

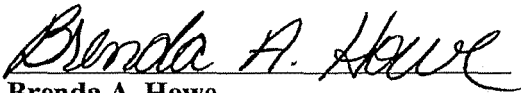
7. I&M's request for confidential trade secret treatment shall be and is hereby granted, and such Confidential Information shall be exempted from public disclosure.

8. This Order shall be effective on and after the date of its approval.

HARDY, ATTERHOLT, GOLC, LANDIS, AND ZIEGNER CONCUR:

APPROVED: JAN 06 2010

**I hereby certify that the above is a true
and correct copy of the Order as approved.**



**Brenda A. Howe
Secretary to the Commission**